

Page 1 of 2 (Page 1)

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JEFFREY ATLEE BEAGLE - April 18, 2022

Page 2		Page 4	
1	A P P E A R A N C E S	1 Exhibit Number 148 E-mails	48
2		2 Exhibit Number 149 E-mails	50
3	For the Plaintiffs:	3 Exhibit Number 179 E-mails	54
4	(attended remotely)	4 Exhibit Number 180 E-mails	57
5	David I. Moulton	5 Exhibit Number 181 E-mails	59
6	Bruckner Burch, PLLC	6 Exhibit Number 182 E-mails	60
7	8 E. Greenway Plaza, Suite 1500	7 Exhibit Number 183 E-mails	61
8	Houston, Texas 77046	8 Exhibit Number 184 Excel Spreadsheet	62
9	dmoulton@brucknerburch.com	9 Exhibit Number 185 E-mails	63
10	For the Defendants:	10 Exhibit Number 170 Earnings Statements	66
11	William Stukenberg	11 Exhibit Number 156 E-mails	83
12	Porter Hedges, LLP	12	
13	1000 Main Street, 36th Floor	13	DEFENDANT'S EXHIBITS
14	Houston, Texas 77002	14	Page
15	(713)226-6626	15 Exhibit Number 134 E-mails	90
16	wstukenberg@porterhedges.com	16 Exhibit Number 142 E-mails	91
17	Anthony Arteaga	17	
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23	Also Present:	23	
24	Johnny Blanco, Videographer	24	
25		25	

Page 3		Page 5	
1	C O N T E N T S	1	S T I P U L A T I O N S
2		2	
3	Direct Examination by Mr. Moulton	3	IT IS HEREBY STIPULATED AND AGREED by and
4	Cross-Examination by Mr. Stukenberg	4	among the attorneys for the respective parties
5	Redirect Examination by Mr. Moulton	5	hereto that the deposition of JEFFREY ATLEE BEAGLE
6		6	may be taken on behalf of the Plaintiffs on the 18th
7	P L A I N T I F F ' S E X H I B I T S	7	of APRIL, 2022, in OKLAHOMA CITY, OKLAHOMA, by Karen
8		8	Johnson, Certified Shorthand Reporter for the State
9	Exhibit Number 175 LinkedIn Page	9	of Oklahoma, taken pursuant to Federal Rules of
10	Exhibit Number 131 E-mails	10	Civil Procedure.
11	Exhibit Number 140 E-mails	11	
12	Exhibit Number 137 Pay Rate Scale	12	* * * * *
13	Exhibit Number 139 Higher Power Offer Letter	13	
14	Exhibit Number 138 5 Star Pay Scale	14	
15	Exhibit Number 166 E-mails	15	
16	Exhibit Number 176 E-mails	16	
17	Exhibit Number 167 Excel Spreadsheet	17	
18	Exhibit Number 174 Excel Spreadsheet	18	
19	Exhibit Number 177 E-mails	19	
20	Exhibit Number 151 Cobra Pay Scale	20	
21	Exhibit Number 143 E-mails	21	
22	Exhibit Number 52 Tanner Offer Letter	22	
23	Exhibit Number 146 Fair Offer Letter	23	
24	Exhibit Number 1 Benavides Offer Letter	24	
25	Exhibit Number 61 Personnel Action Form	25	

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 6</p> <p>1 THE VIDEOGRAPHER: Good morning. We are</p> <p>2 on the record. Would the court reporter please</p> <p>3 swear the witness.</p> <p>4 JEFFREY ATLEE BEAGLE,</p> <p>5 after having been first duly sworn at 12:00 p.m.</p> <p>6 deposes and says in reply to the questions</p> <p>7 propounded as follows, to wit:</p> <p>8 MR. MOULTON: All right. Before we get</p> <p>9 started, can we just have everyone who's attending</p> <p>10 this deposition today please announce themselves</p> <p>11 for the record. I'm David Moulton, I represent</p> <p>12 the plaintiffs in this matter.</p> <p>13 MR. STUKENBERG: Will Stukenberg on behalf</p> <p>14 of the defendants and Mr. Beagle.</p> <p>15 THE WITNESS: Jeff Beagle.</p> <p>16 MR. MOULTON: Do we have anybody on</p> <p>17 your -- on Anthony Arteaga line?</p> <p>18 MR. STUKENBERG: Yes.</p> <p>19 MR. ARTEAGA: Yes, sir. Anthony Arteaga</p> <p>20 on behalf of defendants.</p> <p>21 MR. MOULTON: And, Anthony, do you have</p> <p>22 anybody watching or listening with you?</p> <p>23 MR. ARTEAGA: No, sir, it's just me.</p> <p>24 MR. STUKENBERG: He does my exhibits for</p> <p>25 me, Dave.</p>	<p style="text-align: right;">Page 8</p> <p>1 A Insurica.</p> <p>2 Q To get ready for your deposition today,</p> <p>3 did you talk with anyone or review any materials?</p> <p>4 A Yes.</p> <p>5 Q Who did you meet with?</p> <p>6 A Will.</p> <p>7 Q Did you meet with Mr. Layton?</p> <p>8 A No.</p> <p>9 Q Have you talked to Mr. Layton about this</p> <p>10 deposition?</p> <p>11 A No.</p> <p>12 Q Have you talked with anyone besides</p> <p>13 Mr. Stukenberg that's affiliated with the</p> <p>14 defendants in any way?</p> <p>15 A No.</p> <p>16 Q When is the last time you talked with</p> <p>17 any -- any other workers or employees of Mammoth</p> <p>18 or its affiliates?</p> <p>19 A I have one friend that still works there</p> <p>20 that I talk to somewhat regularly at one of the</p> <p>21 affiliates.</p> <p>22 Q Okay. And who is that?</p> <p>23 A Chris Scott.</p> <p>24 Q What company is he with?</p> <p>25 A Stingray.</p>
<p style="text-align: right;">Page 7</p> <p>1 MR. MOULTON: I'm sorry, what?</p> <p>2 MR. STUKENBERG: He does my exhibits for</p> <p>3 me.</p> <p>4 MR. MOULTON: Okay. Perfect.</p> <p>5 Mr. Beagle, is there anyone else in the</p> <p>6 room with you besides Mr. Stukenberg, the court</p> <p>7 reporter, and the -- and the videographer?</p> <p>8 THE WITNESS: There is not.</p> <p>9 DIRECT EXAMINATION</p> <p>10 BY MR. MOULTON:</p> <p>11 Q Mr. Beagle, for the record, can you state</p> <p>12 your full name, please?</p> <p>13 A Jeffrey Atlee Beagle.</p> <p>14 Q How do you spell Atlee?</p> <p>15 A A-T-L-E-E.</p> <p>16 Q And how do you spell Beagle?</p> <p>17 A B-E-A-G-L-E.</p> <p>18 Q What is your home address, sir?</p> <p>19 A 1901 Interurban Way, Edmond, Oklahoma,</p> <p>20 73034.</p> <p>21 Q How long have you lived at that address?</p> <p>22 A Six years.</p> <p>23 Q What's your date of birth?</p> <p>24 A July 12th, 1985.</p> <p>25 Q What is your current employer?</p>	<p style="text-align: right;">Page 9</p> <p>1 Q And when -- and how long ago was it that</p> <p>2 you and Mr. Scott spoke last?</p> <p>3 A Within the last month.</p> <p>4 Q Have you all discussed the -- the lawsuit</p> <p>5 at all?</p> <p>6 A No.</p> <p>7 Q Besides Mr. Scott, do you have any</p> <p>8 friends, family members or anyone that you're</p> <p>9 close to that still works for Mammoth or any of</p> <p>10 its affiliates?</p> <p>11 A No.</p> <p>12 Q How did your employment with Mammoth end?</p> <p>13 A I resigned.</p> <p>14 Q Okay. And which -- which entity were you</p> <p>15 technically employed by?</p> <p>16 A Mammoth Energy, Inc.</p> <p>17 Q Were you employed by any others?</p> <p>18 A I believe when I started, I was employed</p> <p>19 by Stingray.</p> <p>20 Q Okay. So you're -- so while -- while you</p> <p>21 were there, you were with Stingray at first and</p> <p>22 then you were with Mammoth Energy, Inc.?</p> <p>23 A Correct.</p> <p>24 Q And you said you resigned, can you tell us</p> <p>25 why you resigned?</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 10</p> <p>1 A Just found a new opportunity at my new</p> <p>2 employer, and it was a really good opportunity and</p> <p>3 decided to make a change.</p> <p>4 Q Okay. Was there anything that you didn't</p> <p>5 like about your job that factored into leaving</p> <p>6 Mammoth?</p> <p>7 A No, it was busy, but --</p> <p>8 Q Okay. When you were with Mammoth Energy,</p> <p>9 Inc., who did you report to?</p> <p>10 A Mark Layton.</p> <p>11 Q And he was the CFO; correct?</p> <p>12 A Correct.</p> <p>13 Q Did you report to anyone else?</p> <p>14 A No.</p> <p>15 Q And who were your direct reports?</p> <p>16 A Alex Kalman, Michelle Hernandez, Debbie</p> <p>17 Mary, there may be -- those are the ones that come</p> <p>18 to mind, I may be missing somebody.</p> <p>19 Q You were the director of HR; correct?</p> <p>20 A Correct.</p> <p>21 Q Mr. Beagle, I want to show you a document</p> <p>22 here, we're going to discuss it real quick, we've</p> <p>23 marked it as Exhibit 175.</p> <p>24 (Plaintiff's Exhibit Number 175 marked for</p> <p>25 identification and made part of the</p>	<p style="text-align: right;">Page 12</p> <p>1 A I think that's correct, yeah.</p> <p>2 Q Okay. In that first part here, it</p> <p>3 mentions 2200 employees company-wide throughout</p> <p>4 the U.S. and Puerto Rico, do you have a sense for</p> <p>5 during the time that Mammoth had work in Puerto</p> <p>6 Rico, can you tell me about -- of those -- of</p> <p>7 those 2,200 employees, how many were actually</p> <p>8 Puerto Rican workers or workers that were working</p> <p>9 in Puerto Rico?</p> <p>10 A I don't recall.</p> <p>11 Q Okay. And so the -- the duties you listed</p> <p>12 here for Mammoth Energy Services, are they</p> <p>13 accurate?</p> <p>14 A Yes.</p> <p>15 Q Okay. And then under Stingray Energy, you</p> <p>16 worked there for -- it says three years, eleven</p> <p>17 months from October 2014 to October 2016; is</p> <p>18 that -- is that correct?</p> <p>19 A I think that's right.</p> <p>20 Q Okay. And you were the director of human</p> <p>21 resources there?</p> <p>22 A Yes.</p> <p>23 Q And Stingray is one of the affiliates in</p> <p>24 Mammoth; right?</p> <p>25 A Correct.</p>
<p style="text-align: right;">Page 11</p> <p>1 record)</p> <p>2 Q (By Mr. Moulton) And this is the --</p> <p>3 basically the resume' version of your LinkedIn</p> <p>4 page that I downloaded. And I just wanted to see</p> <p>5 if you can review this to see if this is an</p> <p>6 accurate summary for you?</p> <p>7 MR. STUKENBERG: And I'm going to go ahead</p> <p>8 and object to any documents that weren't produced</p> <p>9 in advance of the deposition.</p> <p>10 THE WITNESS: Yeah, that looks like what I</p> <p>11 have on my LinkedIn page for my current role.</p> <p>12 Q (By Mr. Moulton) Okay. And I want to</p> <p>13 scroll down to the experience section, if you</p> <p>14 could just kind of verify these, your experience</p> <p>15 section, so under -- for Insurica, I have you down</p> <p>16 as vice-president, director human resources from</p> <p>17 December 2018 to the present; is that right?</p> <p>18 A Yeah, I started as director,</p> <p>19 vice-president was added more recently, but the</p> <p>20 role was essentially the same.</p> <p>21 Q Okay. And then with Mammoth Energy</p> <p>22 Services, you were the human resources director?</p> <p>23 A Yeah.</p> <p>24 Q From March 2015 through December 2018;</p> <p>25 correct?</p>	<p style="text-align: right;">Page 13</p> <p>1 Q When you were working at Stingray, did you</p> <p>2 work with Mr. Layton?</p> <p>3 A I honestly can't remember when he joined</p> <p>4 the organization.</p> <p>5 Q Were you there before him?</p> <p>6 A I believe so.</p> <p>7 Q Okay. How closely have you worked with</p> <p>8 Mr. Layton during the time that you were at -- you</p> <p>9 were affiliated with Mammoth?</p> <p>10 MR. STUKENBERG: Objection; form.</p> <p>11 THE WITNESS: Standard supervisor-employee</p> <p>12 relationship, I don't know how to answer that.</p> <p>13 Q (By Mr. Moulton) Did you -- yeah, sorry.</p> <p>14 Did you get to know him pretty well?</p> <p>15 A Professionally, I guess, yeah.</p> <p>16 Q Okay. Do you have an opinion about</p> <p>17 whether or not he's honest or dishonest?</p> <p>18 MR. STUKENBERG: Objection; form.</p> <p>19 THE WITNESS: I would say he's honest.</p> <p>20 Q (By Mr. Moulton) Okay. You're not aware</p> <p>21 of any times where he was dishonest with you?</p> <p>22 A No.</p> <p>23 Q Okay.</p> <p>24 A Excuse me.</p> <p>25 Q You mentioned you met with Mr. Stukenberg</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 14</p> <p>1 today, without asking you what you guys talked</p> <p>2 about, I just kind of wanted to know, what time</p> <p>3 did you -- did y'all meet?</p> <p>4 A Today?</p> <p>5 Q Yeah.</p> <p>6 A I think I got here about 11:15.</p> <p>7 Q Okay. Did you -- did you meet with him</p> <p>8 about this deposition at any other time?</p> <p>9 A Yes.</p> <p>10 Q When was that?</p> <p>11 A Last week.</p> <p>12 Q Okay. And how did y'all meet, in person</p> <p>13 or over Zoom or phone?</p> <p>14 A Zoom or Teams.</p> <p>15 Q Okay. And approximately how long did you</p> <p>16 y'all talk or meet?</p> <p>17 A Hour, hour and a half.</p> <p>18 Q All right. So, Mr. Beagle, I'm going to</p> <p>19 go through several documents to kind of go through</p> <p>20 sort of the history of -- of sort of the</p> <p>21 development of how pay was determined at -- at</p> <p>22 Mammoth while the worker -- well, actually, before</p> <p>23 and then during while the workers were in Puerto</p> <p>24 Rico. And I'm going to start kind of where I --</p> <p>25 what I view as the beginning of this, and so I'd</p>	<p style="text-align: right;">Page 16</p> <p>1 A It was a -- one of the subsidiaries on a</p> <p>2 classification case.</p> <p>3 Q Was it Stingray?</p> <p>4 A Yes.</p> <p>5 Q Okay. Was it -- it may have been one of</p> <p>6 the overtime cases dealing with a</p> <p>7 misclassification of workers?</p> <p>8 A Yeah, it was over the classification of</p> <p>9 exempt verse non-exempt.</p> <p>10 Q Okay. Do you remember where you were when</p> <p>11 you gave that deposition?</p> <p>12 A I want to say Cleveland.</p> <p>13 Q Ohio?</p> <p>14 A Yes.</p> <p>15 Q Okay. And approximately when was that?</p> <p>16 A I don't recall, best guess would be 2014,</p> <p>17 2015, somewhere around there.</p> <p>18 Q Okay. Do you remember what position of</p> <p>19 workers it was?</p> <p>20 A I think it was equipment operators.</p> <p>21 Q And do you remember if they were paid</p> <p>22 salary, hourly, day rate, piece rate?</p> <p>23 A I think it had to do with salary verse</p> <p>24 hourly.</p> <p>25 Q Okay. And do you think it was a white</p>
<p style="text-align: right;">Page 15</p> <p>1 ask that you pay close attention to my questions</p> <p>2 and stay on -- if we can stay on the topic of my</p> <p>3 questions, trust me, I think we'll get through it</p> <p>4 all and I think we'll get through it rather</p> <p>5 quickly. But the trick in a deposition sometimes</p> <p>6 is -- is to focus on the question that's being</p> <p>7 asked, and I'd ask that you do that. I'd also ask</p> <p>8 that -- that you wait for the question to be</p> <p>9 finished before you start talking, and I'll do my</p> <p>10 best to not talk over you because the court</p> <p>11 reporter has to write everything down. Is that</p> <p>12 understood?</p> <p>13 A Understood.</p> <p>14 Q Great. Now, before we get going on that,</p> <p>15 actually, Mr. Beagle, have you ever testified</p> <p>16 before under oath?</p> <p>17 A Yes.</p> <p>18 Q Okay. Approximately how many times are we</p> <p>19 talking about?</p> <p>20 A Once, maybe twice.</p> <p>21 Q Have you testified under oath in regards</p> <p>22 to any issues involving Mammoth or its</p> <p>23 subsidiaries?</p> <p>24 A Yes.</p> <p>25 Q Okay. Can you tell me about that?</p>	<p style="text-align: right;">Page 17</p> <p>1 color exemption case or a misclassification of</p> <p>2 employee case?</p> <p>3 MR. STUKENBERG: Objection; form.</p> <p>4 THE WITNESS: I'm not -- I don't recall.</p> <p>5 Q (By Mr. Moulton) That's fine. Okay.</p> <p>6 We're going to go looking at some documents here,</p> <p>7 I'm going to show you what's been previously</p> <p>8 labeled as Plaintiff's Exhibit 131. Show it there</p> <p>9 on your screen.</p> <p>10 (Plaintiff's Exhibit Number 131 previously</p> <p>11 marked for identification and made part of</p> <p>12 the record)</p> <p>13 Q (By Mr. Moulton) This is an e-mail chain</p> <p>14 and with e-mail chains, they usually start, at</p> <p>15 least in this case, they're starting at the</p> <p>16 bottom, it's going to be the oldest e-mails, and</p> <p>17 as we go through the chain, we'll scroll up and</p> <p>18 get more recent. Does that make sense?</p> <p>19 A Yes.</p> <p>20 Q Okay. So this is -- we're going to look</p> <p>21 Exhibit 131 at the bottom of Page 3579, I want to</p> <p>22 direct your attention to an e-mail from Keith</p> <p>23 Ellison on Thursday, October 19th at 1:02, do you</p> <p>24 see this e-mail?</p> <p>25 A Yes.</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 18</p> <p>1 Q Okay. And you see that you are copied on</p> <p>2 it; correct?</p> <p>3 MR. STUKENBERG: No, he's not.</p> <p>4 THE WITNESS: I don't see it, I don't see</p> <p>5 my name.</p> <p>6 Q (By Mr. Moulton) Yeah, I guess you're</p> <p>7 copied like at 9:34 the next day.</p> <p>8 A Okay.</p> <p>9 Q Do you see that?</p> <p>10 A Yeah.</p> <p>11 Q Okay. So you received this e-mail from</p> <p>12 Keith Ellison where he's saying that they've got</p> <p>13 the contract and they're paying the following day</p> <p>14 rates, do you see that?</p> <p>15 MR. STUKENBERG: Objection; form. He's</p> <p>16 not copied on the e-mail, Dave.</p> <p>17 THE WITNESS: Yes, I see that.</p> <p>18 Q (By Mr. Moulton) Okay. And you were</p> <p>19 copied the next day on October 20th, correct, it</p> <p>20 was forwarded to you?</p> <p>21 A Yes, I see that.</p> <p>22 Q Okay. And you -- you, being the director</p> <p>23 of HR, it looks like you're getting involved</p> <p>24 pretty immediately, you're writing Ken about that</p> <p>25 you're going to try to mirror these rates, can you</p>	<p style="text-align: right;">Page 20</p> <p>1 starting at the bottom here, there are some</p> <p>2 e-mails from Alexander Kalman, he has some</p> <p>3 questions about the pay plan, do you see that on</p> <p>4 November 6th at the bottom at Page 3153?</p> <p>5 A Yes.</p> <p>6 Q Okay. And Alex asks for follow up a</p> <p>7 couple times, but I'm going to scroll up to the</p> <p>8 part where the action is. If you can look at two</p> <p>9 e-mails for me inside Exhibit 140, it's Mammoth</p> <p>10 3151 and Mammoth 3152. We have an e-mail from Ken</p> <p>11 Kinsey that you're copied on that says he's</p> <p>12 "visited with Keith, see below. The answers are</p> <p>13 in red to your questions. If the answers below</p> <p>14 are not clear, please call me," do you see that?</p> <p>15 A Yes.</p> <p>16 Q Okay. So we're going to go below to see</p> <p>17 the -- the answers from -- that Ken said Keith</p> <p>18 said in Number 2, do you see what I'm talking</p> <p>19 about?</p> <p>20 A Yes.</p> <p>21 MR. STUKENBERG: Objection; form.</p> <p>22 Q (By Mr. Moulton) Okay. So let's look at</p> <p>23 this. "In the same vein, can we confirm that</p> <p>24 hourly employees should only receive their day</p> <p>25 rate and not their hourly rate in addition to</p>
<p style="text-align: right;">Page 19</p> <p>1 explain to us what you meant by that?</p> <p>2 A Yeah, I think we looked at a couple</p> <p>3 different options when we were, I guess, trying to</p> <p>4 figure out how to make everything work, be that,</p> <p>5 obviously our initial e-mail had a day rate, it</p> <p>6 looks like I'm e-mailing Steve Broussard there, so</p> <p>7 if we assumed those are numbers we're trying to</p> <p>8 budget towards, you know, how can we do that in a</p> <p>9 compliant manner under the FLSA.</p> <p>10 Q Right. Okay. And so you wrote Broussard</p> <p>11 about that and he -- he wrote to you about a</p> <p>12 couple things, but -- but hearing what you're</p> <p>13 saying is, you -- you understood that those day</p> <p>14 rates were budgets that you were going to try to</p> <p>15 then work out a compliance system, is that what</p> <p>16 you're saying?</p> <p>17 A Yeah, I think we looked at, I guess, day</p> <p>18 rates, hourly rates, and reached out to Steve, as</p> <p>19 our counsel, to try to get guidance from him on</p> <p>20 how best to move forward.</p> <p>21 (Plaintiff's Exhibit Number 140 previously</p> <p>22 marked for identification and made part of</p> <p>23 the record)</p> <p>24 Q (By Mr. Moulton) Okay. Going to show you</p> <p>25 what's been previously labeled as Exhibit 140,</p>	<p style="text-align: right;">Page 21</p> <p>1 their day rate; correct?" Did I read that</p> <p>2 question right?</p> <p>3 A Yeah, that's how it's written there.</p> <p>4 Q Okay. And the response, as you can see,</p> <p>5 it's a slightly different color says, "All hourly</p> <p>6 employees will get their PR rate only," do you see</p> <p>7 that?</p> <p>8 A I do.</p> <p>9 Q Do you know what Keith meant by that?</p> <p>10 A If I recall, they had a Puerto Rico hourly</p> <p>11 rate and then a standby hourly rate while they</p> <p>12 were stateside before they deployed to Puerto</p> <p>13 Rico. So I think he would be referring they</p> <p>14 should get their hourly rate for being on island,</p> <p>15 the Puerto Rico rate only.</p> <p>16 Q Okay. Do you know if he was referring to</p> <p>17 the day rates that he had written about in -- in</p> <p>18 Exhibit 131?</p> <p>19 A I -- I don't know.</p> <p>20 (Plaintiff's Exhibit Number 137 previously</p> <p>21 marked for identification and made part of</p> <p>22 the record)</p> <p>23 Q (By Mr. Moulton) I'm going to -- the next</p> <p>24 document I'm going to show you is Plaintiff's</p> <p>25 Exhibit 137. This looks a -- looks like it's a</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

Page 22	Page 24
<p>1 pay rate scale for the workers that are -- that</p> <p>2 are going to be going to Puerto Rico, do you agree</p> <p>3 with this?</p> <p>4 MR. STUKENBERG: Objection; form.</p> <p>5 THE WITNESS: Looks like that, yeah.</p> <p>6 Q (By Mr. Moulton) Okay. And can you -- do</p> <p>7 you notice that these rates here from general</p> <p>8 foreman on down are the rates that match with</p> <p>9 Mr. Ellison's original e-mail that we looked at;</p> <p>10 right?</p> <p>11 A I'll take -- I didn't memorize them, but</p> <p>12 I'll take your word for it that they match with</p> <p>13 the original e-mail.</p> <p>14 (Plaintiff's Exhibit Number 139 previously</p> <p>15 marked for identification and made part of</p> <p>16 the record)</p> <p>17 Q (By Mr. Moulton) And these are the same</p> <p>18 rates that we'll see in Exhibit 139, that Higher</p> <p>19 Power put in their offer letter; correct?</p> <p>20 MR. STUKENBERG: Objection; form.</p> <p>21 THE WITNESS: Yeah, I guess you've got --</p> <p>22 you've got the hourly rate there as well.</p> <p>23 Q (By Mr. Moulton) Right. That's -- so this</p> <p>24 is Exhibit 139. The -- the hourly rates here,</p> <p>25 though, aren't these hourly rates for the rates</p>	<p>1 you, but that messed up.</p> <p>2 A Nah, you're good.</p> <p>3 Q You got it, okay.</p> <p>4 (Plaintiff's Exhibit Number 166 previously</p> <p>5 marked for identification and made part of</p> <p>6 the record)</p> <p>7 Q (By Mr. Moulton) Now, eventually -- in</p> <p>8 Exhibit 166, we have some e-mails starting to talk</p> <p>9 about how you guys are going to calculate on what</p> <p>10 the hourly rates would be for those day rates;</p> <p>11 correct?</p> <p>12 A Right.</p> <p>13 Q Okay. And so let's just kind of review</p> <p>14 this. In the -- the bottom e-mail in Exhibit 166</p> <p>15 is Mammoth 3291, and we have e-mail from Missy</p> <p>16 Davis to you and Alex, Alex Kalman, and it says,</p> <p>17 "Can you guys give me a mathematical explanation</p> <p>18 on the PR pay rates and how we're processing that?</p> <p>19 Not because I don't trust you, but because the men</p> <p>20 are asking me and I don't know how to tell them or</p> <p>21 explain it to them," do you see that?</p> <p>22 A I do.</p> <p>23 Q Okay. And we have your response right</p> <p>24 here on -- on November 13th, 2017 on Mammoth 3290</p> <p>25 in Exhibit 166, and it says, "Missy, sorry for the</p>
Page 23	Page 25
<p>1 that they were receiving before they went to the</p> <p>2 island?</p> <p>3 A I'm not sure.</p> <p>4 Q Okay. But these Puerto Rico storm per day</p> <p>5 rates mirror or are the same as the rates that</p> <p>6 Mr. Ellison originally wrote; correct?</p> <p>7 A Again, I -- I can't see them both, but</p> <p>8 they look similar, yes.</p> <p>9 Q If you want, we can go back to 131 and you</p> <p>10 can review 131 again, just verify.</p> <p>11 A Okay. Can you go back?</p> <p>12 Q Right. So back in Exhibit 139, can you</p> <p>13 verify they're the same rates?</p> <p>14 A Yes, they look the same.</p> <p>15 (Plaintiff's Exhibit Number 138 previously</p> <p>16 marked for identification and made part of</p> <p>17 the record)</p> <p>18 Q (By Mr. Moulton) And in Exhibit 138, we</p> <p>19 have a 5 Star pay scale, which has the same rates,</p> <p>20 I wonder if you can verify that for me?</p> <p>21 MR. STUKENBERG: What did you characterize</p> <p>22 this document as, Dave?</p> <p>23 MR. MOULTON: Exhibit 138.</p> <p>24 THE WITNESS: Yes, those look the same.</p> <p>25 Q (By Mr. Moulton) Was trying to zoom it for</p>	<p>1 late response. Please find attached Excel file in</p> <p>2 Sheet 1. If you take the 16-hour shifts over a</p> <p>3 seven-day workweek with the applicable overtime of</p> <p>4 one and a half times for anything over 40, you'll</p> <p>5 see that it nets out to the day rate over a week</p> <p>6 period. Take that total, then divide by the seven</p> <p>7 days. Let me know if that does not make sense.</p> <p>8 Thanks." Do you remember sending that e-mail?</p> <p>9 A No, but I can read it, yeah.</p> <p>10 Q Right. Okay. This is an e-mail you sent</p> <p>11 to Missy?</p> <p>12 A Yes.</p> <p>13 Q Okay. And here you're explaining to her</p> <p>14 how you guys are going to come up with the hourly</p> <p>15 rates that you'll use, if someone works the whole</p> <p>16 week, they will end up getting the equivalent of</p> <p>17 their day rate; correct?</p> <p>18 A Yeah, I -- I think it was a budgeted</p> <p>19 amount that we were trying to be compliant with,</p> <p>20 so we were coming up with the hourly rate that</p> <p>21 would hit that kind of targeted budgeted amount.</p> <p>22 Q Sorry, I didn't mean to turn it off.</p> <p>23 A I can see it.</p> <p>24 Q Yeah. I'm just closing some of these</p> <p>25 windows before my computer starts hanging up.</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 26</p> <p>1 A Okay.</p> <p>2 Q And you provided another explanation in</p> <p>3 this process in Exhibit 176 to Mr. Kinsey, so</p> <p>4 let's look at this.</p> <p>5 (Plaintiff's Exhibit Number 176 marked for</p> <p>6 identification and made part of the</p> <p>7 record)</p> <p>8 Q (By Mr. Moulton) Exhibit 176, Mammoth</p> <p>9 3515, we got J.D. Kinsey writing to Alex and</p> <p>10 you're going to be answering the question up here.</p> <p>11 Let's look at this. "Hey, Alex, I was doing some</p> <p>12 math based on a breakdown that you've given me, it</p> <p>13 was the breakdown of what the guys are supposed to</p> <p>14 make per day and the breakdown per hour. If the</p> <p>15 breakdown per hour is correct, it doesn't match up</p> <p>16 to the day rate. I was just hoping that you could</p> <p>17 help me to better understand the math part. I'm</p> <p>18 attaching the file that I was looking at."</p> <p>19 And then you ask if he's accounting for</p> <p>20 over 40, you clear it up that it's supposed to be</p> <p>21 over 40, but not eight and eight. But the part</p> <p>22 that I want to ask you about is on the top here,</p> <p>23 your answer to Mr. Kinsey about how to calculate</p> <p>24 the rates, and let's look at this.</p> <p>25 "If you take the 16-hour days with seven</p>	<p style="text-align: right;">Page 28</p> <p>1 Q (By Mr. Moulton) For the court reporter,</p> <p>2 this is Exhibit 167, it's Mammoth 3292 in Excel.</p> <p>3 I don't have an exhibit sticker on it because</p> <p>4 we're going to look at the formulas.</p> <p>5 So looking at this spreadsheet, are you</p> <p>6 familiar with it? Should we walk through it a</p> <p>7 little bit?</p> <p>8 A It does look familiar.</p> <p>9 Q Okay. So the way I understand it is that</p> <p>10 you've come up with a total adjusted hours by</p> <p>11 taking the regular hours and then plus one and a</p> <p>12 half, the overtime hours, and come up with an</p> <p>13 adjusted hours of 148, do you see that?</p> <p>14 A Okay.</p> <p>15 Q In Column H, okay. Then you have your</p> <p>16 budgeted day rates in Column I, and then if you</p> <p>17 were to get your -- if a person, if one of the</p> <p>18 workers was getting their day rate for the whole</p> <p>19 week, and Column J has amounts due and earned for</p> <p>20 the whole week; correct?</p> <p>21 A Right.</p> <p>22 Q Then in K we get like what the hourly</p> <p>23 rates you would need to get to -- to you so that</p> <p>24 if they work the whole week with 16 hours per day</p> <p>25 times seven, with the regular and the overtime,</p>
<p style="text-align: right;">Page 27</p> <p>1 days in a workweek, you'll get 112 hours.</p> <p>2 Anything over 40 in a workweek is time and a half.</p> <p>3 So if you take for the week 40 hours times the</p> <p>4 base, then 72 hours times the base times one and a</p> <p>5 half, you'll get the equivalent of the day rate</p> <p>6 times seven." Is that how y'all figured out what</p> <p>7 the rates should be?</p> <p>8 A Yeah, like I said, I think we consulted</p> <p>9 with Steve Broussard that there was this</p> <p>10 expectation from -- from Keith of kind of what the</p> <p>11 positions would pay from a budgeted standpoint or</p> <p>12 what they would be expected to make in the field,</p> <p>13 and then we tried to work with Steve to come up</p> <p>14 with the correct approach to hit that target.</p> <p>15 Q And I believe that you actually prepared a</p> <p>16 spreadsheet that would show how these calculations</p> <p>17 were made; correct?</p> <p>18 A Probably, yes, yeah.</p> <p>19 Q All right. Let's -- let's look at it,</p> <p>20 let's look at it here, and just for -- what I'm</p> <p>21 going to show you is a native Excel file.</p> <p>22 A Okay.</p> <p>23 (Plaintiff's Exhibit Number 167 previously</p> <p>24 marked for identification and made part of</p> <p>25 the record)</p>	<p style="text-align: right;">Page 29</p> <p>1 that's the amount of pay, that's the hourly rate</p> <p>2 that would need -- that they would need to get for</p> <p>3 that to work in Column K; correct?</p> <p>4 A Correct.</p> <p>5 Q Okay. And here you're checking your math,</p> <p>6 make sure it works in the Column L? And I'm</p> <p>7 asking you, is that what you're --</p> <p>8 A Yes, yes.</p> <p>9 Q And in Columns N through Q, it looks like</p> <p>10 there's a calculation here of how much the</p> <p>11 overtime would be owed if a day rate were being</p> <p>12 paid, do you agree with that?</p> <p>13 A Say that again.</p> <p>14 Q In Columns N through Q, it looks like</p> <p>15 you're calculating how much overtime would be owed</p> <p>16 if the workers were paid a day rate?</p> <p>17 MR. STUKENBERG: Objection; form.</p> <p>18 THE WITNESS: I don't know what that</p> <p>19 means.</p> <p>20 Q (By Mr. Moulton) Okay. So Column N, I</p> <p>21 see -- let's see if we can kind of work through</p> <p>22 it, may just be a lot to take in. So if you take</p> <p>23 the L2 divided by D2, that figure in Column N, to</p> <p>24 me that looks like a calculation of what a regular</p> <p>25 rate would be for a person if they had been paid a</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 30</p> <p>1 day rate; correct?</p> <p>2 A So you're taking the overall figure</p> <p>3 divided by total hours worked, okay.</p> <p>4 Q And to clarify, this is a -- this is a</p> <p>5 spreadsheet that you created?</p> <p>6 A Right.</p> <p>7 Q Okay. So you're -- you're taking the</p> <p>8 total divided by the 112; correct?</p> <p>9 A Correct.</p> <p>10 Q And that comes out to 78.13, which would</p> <p>11 be the regular rate for someone paid a day rate;</p> <p>12 right?</p> <p>13 MR. STUKENBERG: Of that amount.</p> <p>14 THE WITNESS: Yes.</p> <p>15 Q (By Mr. Moulton) Okay. And Column O is</p> <p>16 half of that, which would be the overtime rate for</p> <p>17 a day rate; right?</p> <p>18 A Yes.</p> <p>19 Q And then you're multiplying that figure,</p> <p>20 that overtime, half-time rate times the number of</p> <p>21 overtime hours to calculate how much overtime</p> <p>22 would be due if the person were paid a day rate;</p> <p>23 right?</p> <p>24 A Okay. Yeah.</p> <p>25 Q And that's Column P?</p>	<p style="text-align: right;">Page 32</p> <p>1 MR. MOULTON: That was 167. So this 174</p> <p>2 is also Mammoth 3292-Exhibit 174, we're just</p> <p>3 making -- that's in the file name.</p> <p>4 Q (By Mr. Moulton) What I've done to your</p> <p>5 spreadsheet, Mr. Beagle, is in Column K where they</p> <p>6 have the rates that we were just looking at, I</p> <p>7 just rounded them to two digits to make them to be</p> <p>8 the rates that we actually see on the -- on the</p> <p>9 rate sheets that you guys made. So, for example,</p> <p>10 instead of 59.12, you know, go on forever</p> <p>11 decimals, we just have it 59.12, which would be</p> <p>12 what you would put into the payroll system; right?</p> <p>13 A Right.</p> <p>14 Q Okay. And if we do that, we can see</p> <p>15 what -- in Column L, we'll see what the actual</p> <p>16 amount would be for a worker paid at 59.12, 16</p> <p>17 hours a day, seven days a week. So do you see</p> <p>18 that on Column L, we see that there's a slight</p> <p>19 difference, like there's a 24 cent difference</p> <p>20 between what the day rate amount would be and then</p> <p>21 what the actual amount would be, do you see that?</p> <p>22 A I see that.</p> <p>23 Q All right. And so -- and then on the next</p> <p>24 one, they're off -- for the workers that are paid</p> <p>25 \$1,000 per day or 47.30, the difference is 40</p>
<p style="text-align: right;">Page 31</p> <p>1 A It looks that way, yes.</p> <p>2 Q Yeah. And then you add it all together to</p> <p>3 see what the total pay would be if a day rate</p> <p>4 worker were paid -- if you had a day rate worker</p> <p>5 and you added on the overtime that would be owed,</p> <p>6 Q shows the total amount of the check; correct?</p> <p>7 A Yes, that's the calculation.</p> <p>8 Q Right. I don't know if you noticed in</p> <p>9 your sheet, and this is -- maybe this is a little</p> <p>10 nerdy, but in K, the hourly rates here don't show</p> <p>11 everything that's in there, like you know how</p> <p>12 Excel only shows the number of figures you want it</p> <p>13 to see, so if we expand it out -- or actually, no,</p> <p>14 if you expand it out, you start seeing there's</p> <p>15 more digits there in K, in other words, it wasn't</p> <p>16 rounded?</p> <p>17 A Right.</p> <p>18 (Plaintiff's Exhibit Number 174 previously</p> <p>19 marked for identification and made part of</p> <p>20 the record)</p> <p>21 Q (By Mr. Moulton) Okay. All right. I'm</p> <p>22 going to show you another native spreadsheet that</p> <p>23 is also not labeled, but it is Exhibit 174.</p> <p>24 MR. STUKENBERG: What exhibit was that,</p> <p>25 Dave?</p>	<p style="text-align: right;">Page 33</p> <p>1 cents?</p> <p>2 A Yes.</p> <p>3 Q And then for the workers that are paid</p> <p>4 900, a difference is 36 cents?</p> <p>5 A Yes.</p> <p>6 Q And for the workers that are paid 800 or</p> <p>7 37.84, we get a difference of 32 cents?</p> <p>8 A Yes.</p> <p>9 Q And for the workers that are at 700 or</p> <p>10 33.11, it's a 28 cent difference?</p> <p>11 A Uh-huh.</p> <p>12 Q Sorry, you got to say yes or no for the</p> <p>13 court reporter.</p> <p>14 A Yes.</p> <p>15 Q And at 600, we have a difference of 24</p> <p>16 cents, do you see that?</p> <p>17 A Yes.</p> <p>18 Q Right. Okay. So when someone works a</p> <p>19 full week in Puerto Rico under the system that you</p> <p>20 guys came up with, the figures in L would be the</p> <p>21 amounts that will really show on their paycheck;</p> <p>22 right?</p> <p>23 A Yes, that's correct, because that's based</p> <p>24 off the actual hourly rate they were paid.</p> <p>25 (Plaintiff's Exhibit Number 177 marked for</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 34</p> <p>1 identification and made part of the</p> <p>2 record)</p> <p>3 Q (By Mr. Moulton) All right. So we'll go</p> <p>4 to Exhibit 177, and this is an e-mail where</p> <p>5 Mr. Layton asked you, "What is the deal that is in</p> <p>6 place with our employees that are in Puerto Rico,</p> <p>7 are we paying them their base salary plus a day</p> <p>8 rate?" Did I read that right?</p> <p>9 A Yes.</p> <p>10 Q Okay. Then you answer his question,</p> <p>11 you're talking about how they get the effective</p> <p>12 hourly rate at a 16-hour shift, basically that</p> <p>13 calculation we just went through; right?</p> <p>14 A Correct. Yeah, they're on call for the 16</p> <p>15 hours and they get the hourly rate.</p> <p>16 Q Uh-huh. What -- what employees are you</p> <p>17 guys talking about in this e-mail?</p> <p>18 A What do you mean?</p> <p>19 Q Well, he's saying, what is the deal that</p> <p>20 is in place with our employees that are in Puerto</p> <p>21 Rico, and then you answer him for the hourly</p> <p>22 employees, my question is, which employees are you</p> <p>23 guys talking about, what does it apply to?</p> <p>24 A I guess I don't understand the question.</p> <p>25 Who are we -- I mean, we're talking about the</p>	<p style="text-align: right;">Page 36</p> <p>1 Exhibit 151, and to me, Exhibit 151, let's see if</p> <p>2 you agree with this, looks like a summary of the</p> <p>3 different versions of the scale that we've seen so</p> <p>4 far. Would you agree with that?</p> <p>5 A Yes.</p> <p>6 Q So this one has it all together, we have</p> <p>7 the storm per day rates, we have the per hour</p> <p>8 rates that you calculated and we had the -- the</p> <p>9 stateside, non-Puerto Rico wages right next to it,</p> <p>10 correct, or next to it; right?</p> <p>11 A Correct.</p> <p>12 Q So this is a pay scale for Cobra Energy?</p> <p>13 A Well, I -- I think that was a pay scale</p> <p>14 that applied to Higher Power and 5 Star Electric</p> <p>15 and probably just it was simpler to put Cobra on</p> <p>16 there to kind of encompass those two entities.</p> <p>17 Q Okay. So this -- where it says, "The crew</p> <p>18 wage scale for 2017 Puerto Rico storm rates and</p> <p>19 standby rates for Cobra Energy and subsidiaries,"</p> <p>20 you're -- you're telling us that you think it's</p> <p>21 just for the subsidiaries?</p> <p>22 A I -- I can't recall if Cobra had employees</p> <p>23 or not is what I'm saying.</p> <p>24 Q Oh, okay. But if they did, this would</p> <p>25 also apply to them?</p>
<p style="text-align: right;">Page 35</p> <p>1 hourly and then I talk about the salaried</p> <p>2 employees after that.</p> <p>3 Q Right. And I'm -- I'm not asking about</p> <p>4 the salaried for now, I don't think I will.</p> <p>5 A Okay.</p> <p>6 Q My only question is you guys -- it's not</p> <p>7 like I have a list of people that you're talking</p> <p>8 about, you guys are using the term "our employees"</p> <p>9 and for the hourly employees is your response,</p> <p>10 you're talking about some employees, I was</p> <p>11 wondering if you can enlighten us about employees</p> <p>12 of which companies you're talking about?</p> <p>13 A I would assume we were talking about</p> <p>14 employees of either 5 Star or Higher Power.</p> <p>15 Q Okay. Would this also apply to employees</p> <p>16 of Cobra?</p> <p>17 A I -- I don't think Cobra had employees</p> <p>18 there.</p> <p>19 Q Okay.</p> <p>20 A From my recollection, but --</p> <p>21 (Plaintiff's Exhibit Number 151 previously</p> <p>22 marked for identification and made part of</p> <p>23 the record)</p> <p>24 Q (By Mr. Moulton) The next exhibit I want</p> <p>25 to show you is what's been previously marked as</p>	<p style="text-align: right;">Page 37</p> <p>1 A I would assume so.</p> <p>2 Q Okay. And do you -- are you sure on that,</p> <p>3 are you kind of guessing?</p> <p>4 A I'm kind of guessing.</p> <p>5 Q Oh, that's fine. I want to talk to you</p> <p>6 about the offer letters and how the language for</p> <p>7 the offer letters was determined. We're going to</p> <p>8 look at an exhibit that's been previously marked</p> <p>9 as Exhibit 143.</p> <p>10 (Plaintiff's Exhibit Number 143 previously</p> <p>11 marked for identification and made part of</p> <p>12 the record)</p> <p>13 Q (By Mr. Moulton) Do you remember a Scott</p> <p>14 Whitsett?</p> <p>15 A A little bit.</p> <p>16 Q Okay. Do you remember having -- being</p> <p>17 part of an e-mail chain with him where you had</p> <p>18 some concerns about what the offer letters would</p> <p>19 say?</p> <p>20 A Yes.</p> <p>21 Q Okay. So that's -- that's what this is in</p> <p>22 Plaintiff's Exhibit 143, let's take a look. So at</p> <p>23 the bottom, at 3614, looks like there's some</p> <p>24 example offer letters from Alex to Missy, Missy is</p> <p>25 asking Scott if that's what we're using, and Scott</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 38</p> <p>1 has a concern that you're -- you end up getting</p> <p>2 copied on, and let's just sort of review this.</p> <p>3 He's -- he's basically concerned that the offer</p> <p>4 letters don't reflect what the workers were being</p> <p>5 told about what they would be paid, would you</p> <p>6 agree with that?</p> <p>7 A Yeah, that's what he said, yeah.</p> <p>8 Q Right. And then you -- you come in and</p> <p>9 you're -- it looks like to me in Mammoth 3612 on</p> <p>10 Tuesday, October 24, that you're working to help</p> <p>11 resolve the concerns. And it says, are you -- you</p> <p>12 ask Scott, "Are you looking at these versions</p> <p>13 where it added in the day rate and the language</p> <p>14 regarding that we will attempt to place them in</p> <p>15 the non-project work?"</p> <p>16 A Yes, I see that.</p> <p>17 Q All right. And so Scott's concern was</p> <p>18 about the offer letters not including the day</p> <p>19 rate?</p> <p>20 MR. STUKENBERG: Objection; form, calls</p> <p>21 for speculation. You just want him to read an</p> <p>22 e-mail, just tell him to read the e-mail. If you</p> <p>23 want to ask him what somebody else was thinking,</p> <p>24 we're going to object to speculation.</p> <p>25 MR. MOULTON: Well, Mr. -- Mr. --</p>	<p style="text-align: right;">Page 40</p> <p>1 Q (By Mr. Moulton) Yeah. Do you recall</p> <p>2 Scott being concerned that the -- that the offer</p> <p>3 letters did not include the day rate?</p> <p>4 MR. STUKENBERG: Objection.</p> <p>5 THE WITNESS: I mean, not outside of</p> <p>6 what's already in this e-mail.</p> <p>7 Q (By Mr. Moulton) Okay. So you would just</p> <p>8 rely on the e-mails for your memory?</p> <p>9 A Yeah, yeah.</p> <p>10 Q Okay. And you can see where he's asking</p> <p>11 to have the hourly rate taken out; right?</p> <p>12 A Right.</p> <p>13 Q And it looks like you made some edits</p> <p>14 potentially and sent it to him, because you're</p> <p>15 asking if this would be more palatable?</p> <p>16 A Right.</p> <p>17 Q Then Scott comes back with another version</p> <p>18 and Keith approves it; right?</p> <p>19 A I -- I can't tell from that if he comes</p> <p>20 back with another version or is just following up</p> <p>21 with the version that I -- I sent, it looks like I</p> <p>22 sent something.</p> <p>23 Q All right. And just so you know, I did</p> <p>24 depose Scott Whitsell and he made it clear that he</p> <p>25 did, that he did come back with one --</p>
<p style="text-align: right;">Page 39</p> <p>1 that's -- I appreciate the sidebar, actually, I</p> <p>2 don't, Will, because I'm sure Mr. Beagle may have</p> <p>3 some memory about this that's not in the e-mail</p> <p>4 and that's why we're talking to him about it.</p> <p>5 Q (By Mr. Moulton) Do you recall</p> <p>6 specifically what Mr. Whitsell's complaint was</p> <p>7 about the offer letters?</p> <p>8 A No, other than what it says there about</p> <p>9 how it will come across.</p> <p>10 Q Okay. Maybe this will refresh the memory,</p> <p>11 can you -- let's look at this e-mail from Scott</p> <p>12 that included you where he says, "I understand 100</p> <p>13 percent. Any chance of taking the hourly rate out</p> <p>14 in the letter and stating the per day rate will</p> <p>15 show up hourly?" Do you see that?</p> <p>16 A I do.</p> <p>17 Q Okay. So it sounds like his concern is</p> <p>18 that folks have been told that they can earn a</p> <p>19 certain amount based on a day rate in the original</p> <p>20 offer letter of work including that; would you</p> <p>21 agree?</p> <p>22 MR. STUKENBERG: Objection; form. The</p> <p>23 document speaks for itself.</p> <p>24 THE WITNESS: Yeah, it -- can you -- can</p> <p>25 you repeat the question?</p>	<p style="text-align: right;">Page 41</p> <p>1 A Okay.</p> <p>2 Q -- and this is one that Keith approved.</p> <p>3 A Okay.</p> <p>4 Q Would you -- would you disagree with that?</p> <p>5 A I don't remember that specifically, so</p> <p>6 I -- I couldn't agree or disagree, I guess.</p> <p>7 Q Sure. Fair enough. It's been a little</p> <p>8 while. And then you said, "We will update," is</p> <p>9 that -- is that a decision that you get to make in</p> <p>10 your position?</p> <p>11 A I would believe that we would have gone</p> <p>12 back to Steve Broussard and confirmed the language</p> <p>13 we were putting in the offer letters is my</p> <p>14 recollection.</p> <p>15 Q I see. But based on -- based on his</p> <p>16 input, at the end of the day, that would have been</p> <p>17 a decision that would have been your call as HR</p> <p>18 director?</p> <p>19 A Yeah, with influence or feedback from</p> <p>20 the -- the management, obviously.</p> <p>21 Q Okay. Who else would you have gotten</p> <p>22 feedback from?</p> <p>23 A I'm just saying the people in this e-mail,</p> <p>24 sorry.</p> <p>25 Q Oh, gotcha, okay. It sounds like that</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

Page 42	Page 44
<p>1 happened, I mean, Keith, he's the president of</p> <p>2 Cobra; right?</p> <p>3 A Yes, I believe he was, yeah.</p> <p>4 (Plaintiff's Exhibit Number 52 previously</p> <p>5 marked for identification and made part of</p> <p>6 the record)</p> <p>7 Q (By Mr. Moulton) Okay. We're going to</p> <p>8 look at a document that's been previously marked</p> <p>9 as Exhibit 52. This is an offer letter for James</p> <p>10 Tanner dated on -- the second page has a date, May</p> <p>11 2nd, 2018, do you agree with that?</p> <p>12 A Yeah.</p> <p>13 Q Okay. And we have here language about the</p> <p>14 rate that you guys were discussing in the prior</p> <p>15 exhibit, let's see if I can zoom in for you. I</p> <p>16 want to see if you agree with that, that that's</p> <p>17 the -- this is -- this is the language that you</p> <p>18 guys approved, which was \$800 per day that will be</p> <p>19 broken down hourly over 16 hours daily; is that</p> <p>20 right?</p> <p>21 MR. STUKENBERG: Objection.</p> <p>22 THE WITNESS: I don't remember if this is</p> <p>23 the version we approved or not. But that's</p> <p>24 definitely what it says on the document.</p> <p>25 Q (By Mr. Moulton) Okay. Let's look at</p>	<p>1 Q I think -- I think it was typed, but</p> <p>2 it's -- I think it's just a different rate, but</p> <p>3 the same -- the same idea.</p> <p>4 A Gotcha. But, no, I was not reviewing</p> <p>5 individual offer letters.</p> <p>6 Q Okay. Now, after reviewing this method</p> <p>7 of -- of showing the rate, do you believe this is</p> <p>8 the rate that you -- you guys approved or do you</p> <p>9 think it was more like the one that we already saw</p> <p>10 in James Tanner's?</p> <p>11 A What do you mean?</p> <p>12 Q Well, it seemed like you weren't real</p> <p>13 clear, you couldn't quite remember if like in</p> <p>14 Exhibit 52, if the rate you -- you guys -- the</p> <p>15 language that you approved was \$800 per day that</p> <p>16 we've broken down hourly over 16, because there's</p> <p>17 that method, and you said you weren't sure if</p> <p>18 that's the one that was eventually agreed to or</p> <p>19 not; right?</p> <p>20 A Right.</p> <p>21 Q Okay. So I'm showing you another example</p> <p>22 for Daniel Wood, I'm wondering if this is the one</p> <p>23 that you would have approved?</p> <p>24 A I don't specifically remember. I think at</p> <p>25 the end of the day, again, we were trying to</p>
Page 43	Page 45
<p>1 another one of these offer letters for Daniel</p> <p>2 Wood. The first couple pages aren't signed, so I</p> <p>3 want to go down to the one that's signed, we have</p> <p>4 an offer letter for Daniel Wood, mechanic's</p> <p>5 helper, July 8, '18, it's agreed to him on July</p> <p>6 10, 2018. Is that what you understand this to be</p> <p>7 is an offer letter for Daniel Wood?</p> <p>8 A Yes.</p> <p>9 Q Okay. Now, this is way after those</p> <p>10 initial conversations about what the offer letter</p> <p>11 should say, correct, I mean, this is eight months</p> <p>12 later, it looks like?</p> <p>13 A Based off those e-mails, yeah, that's</p> <p>14 correct.</p> <p>15 Q Right. And so it says for his storm rate</p> <p>16 42.57 at 16 hours per day is \$900 per day, is that</p> <p>17 how you read that?</p> <p>18 A Yes, that's what it says.</p> <p>19 Q Okay. Were -- were you ever in a position</p> <p>20 during this time that you would be reviewing or</p> <p>21 providing input, further input about what these</p> <p>22 offer letters should be saying?</p> <p>23 A I don't believe so, it looks like that's</p> <p>24 handwritten, was there something typed on the</p> <p>25 earlier versions you had?</p>	<p>1 ensure the hourly rate was understood, and if it</p> <p>2 helped, to have a target amount that they would</p> <p>3 earn each day in the offer letter, and that was</p> <p>4 included as well.</p> <p>5 (Plaintiff's Exhibit Number 146 previously</p> <p>6 marked for identification and made part of</p> <p>7 the record)</p> <p>8 Q (By Mr. Moulton) Okay. And then we have</p> <p>9 another example, which is Exhibit -- for Michael</p> <p>10 Fair, which is 146.</p> <p>11 A Can you zoom in on that one a little bit,</p> <p>12 it's pretty tiny.</p> <p>13 Q Yeah. This one's expressed slightly</p> <p>14 differently, it says 1,250 per day at 59.12 per</p> <p>15 hour, do you see that?</p> <p>16 A I do.</p> <p>17 Q Okay. And do you recall if this was the</p> <p>18 version that you would have approved?</p> <p>19 A I don't -- I don't recall. Again, I -- I</p> <p>20 think it -- a different way of saying the same</p> <p>21 thing, that you'll be compensated on an hourly</p> <p>22 rate with a target earning amount of 1,250. It</p> <p>23 doesn't look like it's -- yeah.</p> <p>24 (Plaintiff's Exhibit Number 1 previously</p> <p>25 marked for identification and made part of</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 46</p> <p>1 the record)</p> <p>2 Q (By Mr. Moulton) And in Exhibit -- what's</p> <p>3 been previously marked as Exhibit 1, we have yet</p> <p>4 another example for Carlos Benavides, and this one</p> <p>5 says 800 per day at 37.84 per hour. Do you recall</p> <p>6 if this is the one that you would have approved?</p> <p>7 A Again, I -- I don't recall the specific</p> <p>8 language we approved, but they all seem similar.</p> <p>9 (Plaintiff's Exhibit Number 61 previously</p> <p>10 marked for identification and made part of</p> <p>11 the record)</p> <p>12 Q (By Mr. Moulton) Okay. In Exhibit 61,</p> <p>13 what's been previously marked as Exhibit 61, we</p> <p>14 have a personnel action form, could -- could you</p> <p>15 describe to us what personal action forms are for?</p> <p>16 A I believe they would have been used for,</p> <p>17 excuse me, capturing certain information for new</p> <p>18 hires, changes of position during employment, or</p> <p>19 separation, so kind of just documentation --</p> <p>20 Q Okay.</p> <p>21 A -- of changes in the employee life cycle.</p> <p>22 Q So in Exhibit 61, we have a personnel</p> <p>23 action form for -- for Alan Pierson that's dated</p> <p>24 on his hire date, which is July 20th, 2017;</p> <p>25 correct?</p>	<p style="text-align: right;">Page 48</p> <p>1 dated on October 24, 2017, do you see that?</p> <p>2 A I do.</p> <p>3 Q Okay. And looks like that's signed by</p> <p>4 Robert Malcolm?</p> <p>5 A That looks right.</p> <p>6 Q And he was the president of Higher Power?</p> <p>7 A Correct.</p> <p>8 Q And it has -- it says here it's authorized</p> <p>9 by you, but that -- I mean, to be fair to you, it</p> <p>10 looks like it's just preprinted on this form, but</p> <p>11 do you know what that means?</p> <p>12 A I can't, the -- our faces are covering the</p> <p>13 bottom of the form, if you can scroll down a</p> <p>14 little bit.</p> <p>15 Q Oh, oh, I'd be happy to do that. So we're</p> <p>16 on Page Mammoth 1650 in Exhibit 61, it says on the</p> <p>17 bottom, "Authorized by Jeff Beagle."</p> <p>18 A Yeah, I think that's just -- I'm sorry, I</p> <p>19 didn't let you finish.</p> <p>20 Q I was wondering -- I have to get a</p> <p>21 question, otherwise Will will just say I'm not</p> <p>22 asking a question, which he's going to say right</p> <p>23 now. The question is, the question is, is what</p> <p>24 does it mean when it says "authorized by Jeff</p> <p>25 Beagle" on all these personal action forms?</p>
<p style="text-align: right;">Page 47</p> <p>1 A Yeah. Well, it looks like that's when --</p> <p>2 yeah, his hire date and that's when whoever signed</p> <p>3 that as a supervisor signed it.</p> <p>4 Q Looks like Scott Lynch maybe?</p> <p>5 A Maybe.</p> <p>6 Q Yeah. And so this -- this is before</p> <p>7 Puerto Rico because it's July 2017; correct?</p> <p>8 A Yes, that's correct.</p> <p>9 Q So Puerto Rico would have started about</p> <p>10 October, actually kind of late October, October</p> <p>11 20th or so?</p> <p>12 A Yeah, based off those e-mails you showed</p> <p>13 earlier, that -- that seems right.</p> <p>14 Q Okay. And so Alan Pierson, before he goes</p> <p>15 to Puerto Rico, his base pay is \$22 per hour;</p> <p>16 right?</p> <p>17 A Yeah. Well, that's what it says, yeah.</p> <p>18 Q All right. We can count on -- on these</p> <p>19 forms, right, I mean, they're not -- no one's</p> <p>20 trying to put the wrong rates on these forms;</p> <p>21 right?</p> <p>22 A I would assume not, no.</p> <p>23 Q Right. Okay. And then on the next page</p> <p>24 in this Exhibit 61, we have another personal</p> <p>25 action form, it's still for Alan Pierson, that's</p>	<p style="text-align: right;">Page 49</p> <p>1 A So that is just authorizing that version</p> <p>2 of the form itself, not the information on the</p> <p>3 form.</p> <p>4 Q Okay. Gotcha.</p> <p>5 A So it was, you know, revised in September</p> <p>6 of 2016 by me.</p> <p>7 Q Document management?</p> <p>8 A Right.</p> <p>9 Q Okay. So you're not actually saying on</p> <p>10 this form that you're -- that you're authorizing</p> <p>11 his rate at PR \$800 per day, is that what you're</p> <p>12 saying?</p> <p>13 A Correct.</p> <p>14 Q If anyone was authorizing it, it would be</p> <p>15 Robert Malcolm, who signed it?</p> <p>16 A Yeah, that he would be the approver, but</p> <p>17 again, in practice, it would have been an hourly</p> <p>18 rate.</p> <p>19 (Plaintiff's Exhibit Number 148 previously</p> <p>20 marked for identification and made part of</p> <p>21 the record)</p> <p>22 Q (By Mr. Moulton) We'll look at some</p> <p>23 e-mails that we've labeled as -- we've marked as</p> <p>24 exhibits, Exhibit 148. It looks a little cloudy.</p> <p>25 A Yeah. Looks like it's not loading or</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 50</p> <p>1 something.</p> <p>2 Q Let me try that again. All right.</p> <p>3 Exhibit 148, can you see it on your screen?</p> <p>4 A Yes.</p> <p>5 Q And because it's an e-mail, e-mail chain,</p> <p>6 let's make sure we're looking at the whole thing,</p> <p>7 okay. So Mammoth 3316, Plaintiff's Exhibit 148,</p> <p>8 let's see what we got here. It looks like you're</p> <p>9 writing to Missy and Scott about Trace Gunn with</p> <p>10 the job title electrician apprentice in the Puerto</p> <p>11 Rico department, and you're asking to confirm what</p> <p>12 his day rate should be, you have \$800 per day in</p> <p>13 your system, but he's \$700 day rate, so you want</p> <p>14 to know which one's correct; is that right?</p> <p>15 A Yes, that's what it says, yep.</p> <p>16 Q And it looks like Scott Whitseil told you,</p> <p>17 hey, Missy's going to know the answer?</p> <p>18 A Okay.</p> <p>19 MR. STUKENBERG: We just reading documents</p> <p>20 here, Dave, or do you have questions?</p> <p>21 Q (By Mr. Moulton) Yeah. So did you get</p> <p>22 a -- did you -- do you recall, other than this</p> <p>23 e-mail, getting a response from Missy?</p> <p>24 A I -- I do not, I mean, I think I used the</p> <p>25 term "day rate" to -- that's what they were used</p>	<p style="text-align: right;">Page 52</p> <p>1 (Witness reviews document)</p> <p>2 THE WITNESS: Okay.</p> <p>3 (Witness reviews document)</p> <p>4 THE WITNESS: Okay.</p> <p>5 (Witness reviews document)</p> <p>6 THE WITNESS: Okay.</p> <p>7 (Witness reviews document)</p> <p>8 THE WITNESS: Okay.</p> <p>9 (Witness reviews document)</p> <p>10 THE WITNESS: All right.</p> <p>11 (Witness reviews document)</p> <p>12 THE WITNESS: Okay.</p> <p>13 (Witness reviews document)</p> <p>14 THE WITNESS: Got it.</p> <p>15 Q (By Mr. Moulton) Okay. So on this e-mail</p> <p>16 chain we saw several e-mails here where you guys</p> <p>17 refer to the rates of pay for the employees in</p> <p>18 terms of day rates; correct?</p> <p>19 A Yes.</p> <p>20 Q And if you could explain in November, on</p> <p>21 this e-mail on November 29th, 2017, you said,</p> <p>22 "This will make our" --</p> <p>23 MR. STUKENBERG: Dave, we read the</p> <p>24 e-mails, what's the question?</p> <p>25 MR. MOULTON: I'm going -- I want to make</p>
<p style="text-align: right;">Page 51</p> <p>1 to speaking about, to try to arrive at the correct</p> <p>2 target amount, his budgeted amount for the hourly</p> <p>3 rate.</p> <p>4 MR. MOULTON: Objection; non-responsive.</p> <p>5 (Plaintiff's Exhibit Number 149 previously</p> <p>6 marked for identification and made part of</p> <p>7 the record)</p> <p>8 Q (By Mr. Moulton) We're going to go to</p> <p>9 Exhibit 149, which is another e-mail chain. I</p> <p>10 want to focus on Page 3318. It will give us</p> <p>11 context.</p> <p>12 MR. MOULTON: We are going to have to read</p> <p>13 the e-mails, Will.</p> <p>14 MR. STUKENBERG: Then have him read them</p> <p>15 and then ask him a question, we don't need you to</p> <p>16 read them to us.</p> <p>17 MR. MOULTON: That's -- that's fair.</p> <p>18 Q (By Mr. Moulton) We can start here at the</p> <p>19 bottom. Do you want to just kind of peruse this,</p> <p>20 yeah, we look at Page 3323 together and why don't</p> <p>21 you just look at that, Mr. Beagle, and tell me</p> <p>22 when you want to scroll up to kind of get some</p> <p>23 context of this.</p> <p>24 (Witness reviews document)</p> <p>25 THE WITNESS: Okay. You can scroll up.</p>	<p style="text-align: right;">Page 53</p> <p>1 sure we're talking about the same thing, Will, so</p> <p>2 just bear with me. I appreciate --</p> <p>3 MR. STUKENBERG: I mean, we're just saying</p> <p>4 can you read this e-mail. I mean --</p> <p>5 MR. MOULTON: I'm not doing that. I'm</p> <p>6 going to ask him about this e-mail, but we're</p> <p>7 going to focus on the part that I want to focus on</p> <p>8 to make sure it's clear that we're talking about</p> <p>9 the same thing.</p> <p>10 Q (By Mr. Moulton) I want to focus on this,</p> <p>11 where it says, "This will make our review process</p> <p>12 easier when confirming timecards net out to day</p> <p>13 rates for all employees." Can you explain to us</p> <p>14 what it means when -- in your review process when</p> <p>15 you're confirming the timecards net out to day</p> <p>16 rates, what does that mean?</p> <p>17 A Well, I mean, I think it means, again, we</p> <p>18 had a targeted amount that colleagues were</p> <p>19 expecting to make, I think we talked about it here</p> <p>20 in the terms of a day rate because that was the --</p> <p>21 what -- kind of what's used, just as the shorthand</p> <p>22 versus, you know, weekly targeted amount of</p> <p>23 compensation. And so when we had a -- it sounds</p> <p>24 like when we had a position, we wanted to make</p> <p>25 sure that we had them classified correctly</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

Page 54	Page 56
<p>1 based -- for their compensation.</p> <p>2 Q Do you recall when -- when folks didn't</p> <p>3 work a full week and they had been told they would</p> <p>4 be paid pay rates -- or day rates, that there</p> <p>5 would be a process of adjusting the pay up to what</p> <p>6 the day rate would be?</p> <p>7 A Well, but -- told they would be paid day</p> <p>8 rates by whom?</p> <p>9 Q Well, I mean, we know that Scott Whitsell</p> <p>10 was recruiting folks based on that initial e-mail,</p> <p>11 so I mean, that's not -- I mean, that's not a part</p> <p>12 of the question that I'm -- that matters. Do you</p> <p>13 recall a process where you would basically -- for</p> <p>14 folks that didn't work a full week, that their pay</p> <p>15 would be adjusted to be what the day rate would</p> <p>16 be?</p> <p>17 MR. STUKENBERG: Objection; form.</p> <p>18 THE WITNESS: Yes, I -- I do recall</p> <p>19 instances where, for some reason, they may have</p> <p>20 not worked a full week and then the managers could</p> <p>21 determine to pay additional amount of bonus to the</p> <p>22 colleagues for, I guess, if nothing more than</p> <p>23 morale reasons.</p> <p>24 Q (By Mr. Moulton) And in Exhibit 149, when</p> <p>25 you're confirming the timecards net out to day</p>	<p>1 THE WITNESS: Okay.</p> <p>2 (Witness reviews document)</p> <p>3 THE WITNESS: Okay.</p> <p>4 Q (By Mr. Moulton) Okay. So you've had a</p> <p>5 chance to review the e-mails in Exhibit 179;</p> <p>6 correct?</p> <p>7 A Correct.</p> <p>8 Q Okay. So it sounds like this is basically</p> <p>9 about workers who need adjustments to their pay;</p> <p>10 correct?</p> <p>11 A Yeah. Looks like the initial -- it</p> <p>12 started maybe account numbers and incorrect pay</p> <p>13 rates or titles, yeah, some sort of adjustments</p> <p>14 needed.</p> <p>15 Q Right. There was also adjustments needed</p> <p>16 because when -- when folks don't work a full week,</p> <p>17 what the -- if you call it a -- the day rate pay</p> <p>18 is, is a higher than what the actual pay comes out</p> <p>19 for their -- their hourly pay; correct?</p> <p>20 MR. STUKENBERG: Objection; form.</p> <p>21 THE WITNESS: Can you repeat that?</p> <p>22 Q (By Mr. Moulton) Yeah. So I just wanted</p> <p>23 to confirm with you that under the system that</p> <p>24 Mammoth was using, when workers don't work a full</p> <p>25 week, the hourly pay that they would get is less</p>
Page 55	Page 57
<p>1 rates, is that the process you're talking about?</p> <p>2 A I don't recall sending that e-mail, but</p> <p>3 there's a chance that, again, kind of shorthand</p> <p>4 for those additional payments, yeah.</p> <p>5 Q Okay.</p> <p>6 MR. STUKENBERG: Dave, when you get to a</p> <p>7 stopping point, let's take a break, doesn't need</p> <p>8 to be now, but just --</p> <p>9 MR. MOULTON: That's fine. We can cover</p> <p>10 this e-mail, then we can have a break.</p> <p>11 (Plaintiff's Exhibit Number 179 marked for</p> <p>12 identification and made part of the</p> <p>13 record)</p> <p>14 Q (By Mr. Moulton) All right. This one</p> <p>15 isn't very long, this one should go a little</p> <p>16 faster. This is Exhibit 179, and let's start at</p> <p>17 the bottom, if you want to take a look at it.</p> <p>18 A Okay.</p> <p>19 Q From the bottom, kind of scroll up, just</p> <p>20 tell me when you're ready.</p> <p>21 (Witness reviews document)</p> <p>22 THE WITNESS: Okay.</p> <p>23 (Witness reviews document)</p> <p>24 THE WITNESS: Okay.</p> <p>25 (Witness reviews document)</p>	<p>1 than the amount they would get if they were paid a</p> <p>2 day rate; right?</p> <p>3 A Correct.</p> <p>4 Q All right. And so Missy's asking about</p> <p>5 how do we adjust for folks who don't work the full</p> <p>6 week; correct?</p> <p>7 MR. STUKENBERG: Objection; form. The</p> <p>8 document speaks for itself.</p> <p>9 THE WITNESS: Correct.</p> <p>10 Q (By Mr. Moulton) All right. And so you --</p> <p>11 you talk about this, right, and on your e-mail,</p> <p>12 November 17, that's what you're talking about,</p> <p>13 you're talking about grossing up the pay to equal</p> <p>14 what the day rate pay would be for those folks who</p> <p>15 worked less than a full week; correct?</p> <p>16 MR. STUKENBERG: Objection; form. The</p> <p>17 bottom of the document explains what they're</p> <p>18 correcting.</p> <p>19 THE WITNESS: Correct.</p> <p>20 MR. MOULTON: Did you want to do your</p> <p>21 break now, Will, or you want to keep going?</p> <p>22 MR. STUKENBERG: No, we can do a break.</p> <p>23 THE VIDEOGRAPHER: Off the record.</p> <p>24 (Break taken from 1:06 to 1:16)</p> <p>25 THE VIDEOGRAPHER: Back on.</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 58</p> <p>1 Q (By Mr. Moulton) Mr. Beagle, you</p> <p>2 understand you're still under oath; right?</p> <p>3 A Yes.</p> <p>4 (Plaintiff's Exhibit Number 180 marked for</p> <p>5 identification and made part of the</p> <p>6 record)</p> <p>7 Q (By Mr. Moulton) Okay. Let's continue our</p> <p>8 discussion about the grossing up the page up to</p> <p>9 the day rate amounts. Going to show you what</p> <p>10 we've labeled or marked, I should say, as Exhibit</p> <p>11 180, and this is another e-mail chain, I want to</p> <p>12 let you get familiar with this starting at Mammoth</p> <p>13 3446. Go ahead and take a look at that and I'll</p> <p>14 scroll up when you're ready.</p> <p>15 (Witness reviews document)</p> <p>16 THE WITNESS: Okay.</p> <p>17 (Witness reviews document)</p> <p>18 THE WITNESS: Okay. You can scroll up.</p> <p>19 (Witness reviews document)</p> <p>20 THE WITNESS: Okay.</p> <p>21 (Witness reviews document)</p> <p>22 THE WITNESS: I'm done.</p> <p>23 Q (By Mr. Moulton) Okay. So this is another</p> <p>24 e-mail describing this process where if a worker</p> <p>25 works less than the full week and the hourly pay</p>	<p style="text-align: right;">Page 60</p> <p>1 referring to these grossed up amounts as bonuses</p> <p>2 ever in e-mails?</p> <p>3 A I don't recall all the e-mails, no.</p> <p>4 (Plaintiff's Exhibit Number 181 marked for</p> <p>5 identification and made part of the</p> <p>6 record)</p> <p>7 Q (By Mr. Moulton) Let's look at Exhibit</p> <p>8 181, which is another e-mail chain here, it's</p> <p>9 actually part of the same chain.</p> <p>10 A Okay.</p> <p>11 Q Scroll down to the bottom. Tell me when</p> <p>12 you're ready to scroll up.</p> <p>13 A Yeah, you can go back up.</p> <p>14 Q Okay.</p> <p>15 (Witness reviews document)</p> <p>16 THE WITNESS: Okay. You can go up.</p> <p>17 Q (By Mr. Moulton) Okay. So in Exhibit 181</p> <p>18 we have yet another explanation of how when the</p> <p>19 hourly pay is -- doesn't -- or is short for a</p> <p>20 person who's working less than a full week, that</p> <p>21 the solution will be just to -- to gross their --</p> <p>22 their pay up to that -- that day rate amount;</p> <p>23 correct?</p> <p>24 MR. STUKENBERG: Are you asking about what</p> <p>25 the e-mail says, what the practice is?</p>
<p style="text-align: right;">Page 59</p> <p>1 isn't going to come out to be what the day rate</p> <p>2 pay would be and that you guys are saying that</p> <p>3 you're just going to gross it up to that day rate</p> <p>4 amount; correct?</p> <p>5 MR. STUKENBERG: Objection; form. Reading</p> <p>6 documents to him.</p> <p>7 THE WITNESS: Yes, that's what it says.</p> <p>8 Q (By Mr. Moulton) And that's the process</p> <p>9 that -- that you guys started to do; correct?</p> <p>10 A Correct, with, again, I think there was a</p> <p>11 targeted amount or expectations from the</p> <p>12 colleagues in those instances where it didn't meet</p> <p>13 expectations, the managers wanted to bonus them</p> <p>14 out to, you know, goodwill, morale, whatever we</p> <p>15 want to call it, hard work occurring on the</p> <p>16 island, retention.</p> <p>17 Q Okay. It's curious that you mentioned</p> <p>18 bonus for the first time after having a break and</p> <p>19 speaking with your lawyer.</p> <p>20 MR. STUKENBERG: I'll go ahead and object</p> <p>21 to the sidebar insinuation. In addition, Dave, if</p> <p>22 you look at the transcript, you'll see he said</p> <p>23 bonus several times before the break. But you can</p> <p>24 go ahead and ask a question if you want to.</p> <p>25 Q (By Mr. Moulton) Do you recall ever</p>	<p style="text-align: right;">Page 61</p> <p>1 Q (By Mr. Moulton) This e-mail is about that</p> <p>2 practice; right?</p> <p>3 A Yes, that's what the e-mail says.</p> <p>4 Q Let's take a look at Exhibit 182.</p> <p>5 (Plaintiff's Exhibit Number 182 marked for</p> <p>6 identification and made part of the</p> <p>7 record)</p> <p>8 Q (By Mr. Moulton) Go ahead. Get yourself</p> <p>9 familiar with this, tell me when you want to</p> <p>10 scroll up.</p> <p>11 A Can you scroll down a little bit, it's cut</p> <p>12 off by the -- perfect.</p> <p>13 Q Okay.</p> <p>14 A You can go up, right there is good.</p> <p>15 (Witness reviews document)</p> <p>16 THE WITNESS: Okay. You can scroll up.</p> <p>17 Q (By Mr. Moulton) Okay. Go ahead. I'm</p> <p>18 sorry.</p> <p>19 (Witness reviews document)</p> <p>20 THE WITNESS: Okay.</p> <p>21 (Witness reviews document)</p> <p>22 THE WITNESS: Okay.</p> <p>23 (Witness reviews document)</p> <p>24 THE WITNESS: Okay.</p> <p>25 Q (By Mr. Moulton) Okay. So first question</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 62</p> <p>1 I want to ask you is about Page 3546 in Exhibit</p> <p>2 182 here. I'm sorry, going to be on Page 3547.</p> <p>3 A Okay.</p> <p>4 Q So your e-mail on November 3rd, 2017 is</p> <p>5 letting Mr. Estes know -- is it Ms. or Mr.?</p> <p>6 A I believe it was a Ms.</p> <p>7 Q Okay. Ms. Estes. Okay. So you're</p> <p>8 writing Ms. Estes, you're telling her that you</p> <p>9 guys will be able to process basically the</p> <p>10 corrections to get these workers on that list up</p> <p>11 to their day rate; right?</p> <p>12 MR. STUKENBERG: Objection; form. The</p> <p>13 document speaks for itself.</p> <p>14 THE WITNESS: I didn't see anything</p> <p>15 about -- okay, yes, I see that.</p> <p>16 Q (By Mr. Moulton) Okay. Is that true?</p> <p>17 A Yeah, looks like they didn't get paid as</p> <p>18 expected.</p> <p>19 Q And so that difference will get out to</p> <p>20 them for the Monday payment; right?</p> <p>21 A Correct.</p> <p>22 (Plaintiff's Exhibit Number 183 marked for</p> <p>23 identification and made part of the</p> <p>24 record)</p> <p>25 Q (By Mr. Moulton) So Exhibit 183, I want</p>	<p style="text-align: right;">Page 64</p> <p>1 spreadsheet, but I wanted to discuss this with</p> <p>2 you, Mr. Beagle. Do you see an Excel spreadsheet</p> <p>3 in front of you right now?</p> <p>4 A I do.</p> <p>5 Q Okay. Have you seen rate adjustment</p> <p>6 sheets like this?</p> <p>7 A Not that I recall, no.</p> <p>8 Q Okay. This is not something that you</p> <p>9 would review?</p> <p>10 A No.</p> <p>11 Q Okay. Now, I realize you said you have</p> <p>12 never reviewed sheets like this, do you -- do you</p> <p>13 understand what this is?</p> <p>14 A I mean, it appears they're recommending in</p> <p>15 Column I an adjustment to compensation, an</p> <p>16 increase to compensation, and then the comments</p> <p>17 there say because they did not work entire</p> <p>18 two-week period.</p> <p>19 Q Right. So that sounds like the gross-ups</p> <p>20 that you were talking about in the earlier</p> <p>21 e-mails; right?</p> <p>22 A Correct.</p> <p>23 Q Let's look at Exhibit 185.</p> <p>24 (Plaintiff's Exhibit Number 185 marked for</p> <p>25 identification and made part of the</p>
<p style="text-align: right;">Page 63</p> <p>1 you to review this real quick.</p> <p>2 (Witness reviews document)</p> <p>3 THE WITNESS: Okay. You can scroll up a</p> <p>4 little bit.</p> <p>5 Q (By Mr. Moulton) Okay.</p> <p>6 (Witness reviews document)</p> <p>7 THE WITNESS: Okay.</p> <p>8 (Witness reviews document)</p> <p>9 THE WITNESS: Okay.</p> <p>10 (Witness reviews document)</p> <p>11 Q (By Mr. Moulton) Okay. So did you</p> <p>12 understand that the folks doing payroll would keep</p> <p>13 track of what adjustments need to be made on a</p> <p>14 spreadsheet?</p> <p>15 A Yes, I believe J.D. would.</p> <p>16 Q And Exhibit 183 is talking about one of</p> <p>17 those spreadsheets; right?</p> <p>18 A It appears, yes.</p> <p>19 (Plaintiff's Exhibit Number 184 marked for</p> <p>20 identification and made part of the</p> <p>21 record)</p> <p>22 Q (By Mr. Moulton) Okay. We're going to</p> <p>23 look at that spreadsheet in its native form, it's</p> <p>24 going to be Exhibit 184. We're not going to have</p> <p>25 a sticker on it because it's a native Excel</p>	<p style="text-align: right;">Page 65</p> <p>1 record)</p> <p>2 Q (By Mr. Moulton) It's just one page, go</p> <p>3 ahead and review these e-mails.</p> <p>4 A Okay.</p> <p>5 (Witness reviews document)</p> <p>6 THE WITNESS: Okay.</p> <p>7 Q (By Mr. Moulton) Okay. I want to focus on</p> <p>8 J.D. Kinsey's e-mail that was also sent to you</p> <p>9 about entering in the 16-hour pay.</p> <p>10 A Okay.</p> <p>11 Q So is it true for Puerto Rico that when</p> <p>12 the workers worked on the island, basically every</p> <p>13 day that they showed up for work in the payroll</p> <p>14 system, there would be a 16 hours entered for</p> <p>15 them?</p> <p>16 A That is correct. That was their on --</p> <p>17 essentially on-call time, the max amount they</p> <p>18 would ever be asked to work in a day.</p> <p>19 Q So I want to talk to you about the process</p> <p>20 that was in place, if you know, do you -- do you</p> <p>21 understand how -- how attendance or time was</p> <p>22 recorded and then how that got into the payroll</p> <p>23 system and then how it ended up in pay, do you</p> <p>24 understand what I'm asking, that process?</p> <p>25 A Yeah, if I recall, I think the -- the</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 66</p> <p>1 foreman or crew leader would take attendance each</p> <p>2 day, report that in to J.D. Kinsey, and he would</p> <p>3 enter that information into the payroll system.</p> <p>4 Q And how would the foreman typically record</p> <p>5 who was there that day?</p> <p>6 A I don't know the answer to that.</p> <p>7 Q Okay. So you wouldn't be able to say if</p> <p>8 he used like a paper form or iPad or called it in?</p> <p>9 A No, I don't know.</p> <p>10 Q Okay. But you -- the way you understand</p> <p>11 it, though, that they would be reporting it</p> <p>12 directly to J.D. Kinsey?</p> <p>13 A I believe so, yes.</p> <p>14 Q Okay. Do you know what J.D. stands for?</p> <p>15 A I do not.</p> <p>16 Q Okay. Was he related to Ken Kinsey?</p> <p>17 A Yes, I believe it was his son.</p> <p>18 Q Okay. And who was Ken Kinsey?</p> <p>19 A I don't remember his exact title, but he</p> <p>20 was one of the management personnel in Puerto</p> <p>21 Rico.</p> <p>22 Q Okay. Did Mammoth not have an</p> <p>23 antinepotism policy?</p> <p>24 A I don't remember what the nepotism policy</p> <p>25 was.</p>	<p style="text-align: right;">Page 68</p> <p>1 we got some example paystubs that I wanted to</p> <p>2 discuss with you.</p> <p>3 A Okay.</p> <p>4 Q I'm going to put it on two screens so we</p> <p>5 can flip back and forth to -- to time sheets if we</p> <p>6 need to, okay. So if you ever need to see a time</p> <p>7 sheet for any one of them, we can just jump right</p> <p>8 to it. All right.</p> <p>9 So the first one we have, we have a</p> <p>10 paystub for Justin Washburn, looks like it's for</p> <p>11 the pay period June 25th to July 8th, do you see</p> <p>12 that?</p> <p>13 A I do.</p> <p>14 Q And that I'm assuming that you're probably</p> <p>15 familiar enough with these to know that because</p> <p>16 every day worked on the island essentially was</p> <p>17 logged as 16 hours, that this is a paystub for a</p> <p>18 two day -- or two days' work, would you agree with</p> <p>19 that?</p> <p>20 A Yes.</p> <p>21 Q Okay. And we know also because of -- if</p> <p>22 you want to refresh your memory, we can -- hold</p> <p>23 on, let's do this. We can also reconfirm when we</p> <p>24 see rates on these paystubs, we can go back to the</p> <p>25 pay scale, like in Plaintiff's Exhibit 151, and</p>
<p style="text-align: right;">Page 67</p> <p>1 Q All right. We're going to look at some</p> <p>2 payroll records.</p> <p>3 A Okay.</p> <p>4 MR. MOULTON: And by the way, Will, I</p> <p>5 don't think we're going to be a whole lot longer.</p> <p>6 MR. STUKENBERG: Great.</p> <p>7 MR. MOULTON: Just so you know for your</p> <p>8 flights and stuff.</p> <p>9 MR. STUKENBERG: Great.</p> <p>10 Q (By Mr. Moulton) Just bear with me a</p> <p>11 second, going to get these opened up so we can</p> <p>12 work with them. I'm not like Will and hand you</p> <p>13 3,000 pieces of paper and you have to sort through</p> <p>14 it all in your depo, I'm going to make it easy.</p> <p>15 It's still loading, just so you know.</p> <p>16 A No, you're good.</p> <p>17 Q Where did you go? I can't find you. Here</p> <p>18 we go.</p> <p>19 A I'm here.</p> <p>20 Q Yeah, I know, apparently -- talking about</p> <p>21 on my desktop. Okay. All right.</p> <p>22 (Plaintiff's Exhibit Number 170 previously</p> <p>23 marked for identification and made part of</p> <p>24 the record)</p> <p>25 Q (By Mr. Moulton) Plaintiff's Exhibit 170,</p>	<p style="text-align: right;">Page 69</p> <p>1 see what the target day rate pay was; right?</p> <p>2 A Okay.</p> <p>3 Q So for a 37.84 rate like we were just</p> <p>4 looking at, that corresponds to \$800 a day;</p> <p>5 correct?</p> <p>6 A Correct, yeah, that would be the target.</p> <p>7 Q Right. And so we see here, this is an</p> <p>8 example of the gross-ups that we were talking</p> <p>9 about earlier, right, because with only two days</p> <p>10 worked, Mr. Washburn is basically \$86.40 short of</p> <p>11 what his day rate would be; right?</p> <p>12 A Right. To get to the target of 1,600.</p> <p>13 Q Right. So this is -- so for Mr. Washburn</p> <p>14 then, his pay, in effect, ends up being \$800 a day</p> <p>15 for two days; correct?</p> <p>16 MR. STUKENBERG: Objection; form.</p> <p>17 THE WITNESS: Correct. Yeah, that's the</p> <p>18 math, yeah.</p> <p>19 Q (By Mr. Moulton) Right. And so then, you</p> <p>20 know, there's -- that's one example, and let's go</p> <p>21 to his next pay stub in this -- in this set. And</p> <p>22 just, you know, we're not -- I'm not going to go</p> <p>23 through every single one of his, I have some that</p> <p>24 where I have specific questions about and so just</p> <p>25 so you know, this is not -- these won't</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 70</p> <p>1 necessarily be consecutive.</p> <p>2 This one's on May 14th, May 27th, and this</p> <p>3 one just shows just day rate \$800, and do you know</p> <p>4 why it was entered in like this?</p> <p>5 A It shouldn't have been, I mean, that</p> <p>6 wasn't the -- that wasn't the way it worked.</p> <p>7 Q Okay.</p> <p>8 A I don't know why it would have been.</p> <p>9 Q Okay. That's -- but, you know, even if</p> <p>10 you had done it as 16, there still would have been</p> <p>11 a gross-up and it still would have come out to</p> <p>12 800; right?</p> <p>13 MR. STUKENBERG: Objection; speculation.</p> <p>14 THE WITNESS: If management wanted to do a</p> <p>15 gross-up, yes.</p> <p>16 Q (By Mr. Moulton) Okay. And just to</p> <p>17 confirm, we can actually look at that paycheck,</p> <p>18 May 14th to May 27th, we look at his time detail</p> <p>19 reports, and for that two-week period, as you can</p> <p>20 see on Mammoth 7081, on Sunday, there's an entry</p> <p>21 there for \$800, do you see that?</p> <p>22 A Yes.</p> <p>23 Q Okay. So that \$800 under the pay code Dyr</p> <p>24 corresponds to his pay stub just showing a day</p> <p>25 rate of 800; correct?</p>	<p style="text-align: right;">Page 72</p> <p>1 MR. STUKENBERG: Objection; form.</p> <p>2 THE WITNESS: Yes, there was an adjustment</p> <p>3 of 518.72.</p> <p>4 Q (By Mr. Moulton) Right. Let's look at an</p> <p>5 example for Robby Alvear or Alviar, it's Mammoth</p> <p>6 23 inside Exhibit 170, pay period April 30th to</p> <p>7 May 13th, do you see where it says "day rate</p> <p>8 6,400"?</p> <p>9 A Yes.</p> <p>10 Q On this one, it doesn't show an hourly</p> <p>11 rate; right?</p> <p>12 A Correct.</p> <p>13 Q Okay. But if we look at his time sheets,</p> <p>14 we should be able to tell how many days he worked,</p> <p>15 so let's do that, let's make sure we're in the</p> <p>16 right time. April 30th, May 13th, so it looks --</p> <p>17 with his time detail report, we have eight days</p> <p>18 worked from Sunday, May 6th through Sunday, May</p> <p>19 13th, I know that sounds like seven, but when you</p> <p>20 count Sunday both times, it's eight days; right?</p> <p>21 Do you see that as eight days?</p> <p>22 A Yes.</p> <p>23 Q All right. And so and for each of these</p> <p>24 days, it shows that he's getting \$800 each day;</p> <p>25 right?</p>
<p style="text-align: right;">Page 71</p> <p>1 A It appears, yes.</p> <p>2 Q If we look at Tyler Halford's paystub</p> <p>3 starting on same exhibit, Exhibit 170, Mammoth</p> <p>4 533, with 160 shown in the days or in the hours</p> <p>5 worked, that corresponds to ten days; right?</p> <p>6 A Correct.</p> <p>7 Q Okay. And with a 37.84 rate, we know</p> <p>8 that's targeting \$800 a day; right?</p> <p>9 A Correct.</p> <p>10 Q And so he actually gets paid what is equal</p> <p>11 to 800 times ten on his paycheck; correct?</p> <p>12 A Correct.</p> <p>13 Q And to get there, there was a gross-up of</p> <p>14 \$432 to make that happen?</p> <p>15 MR. STUKENBERG: Objection; form.</p> <p>16 THE WITNESS: Correct.</p> <p>17 Q (By Mr. Moulton) And for Mr. Halford in</p> <p>18 the same exhibit on Page 535, we have another</p> <p>19 example where he's worked five days, which would</p> <p>20 correspond to 80 hours and \$4,000 is his pay;</p> <p>21 right?</p> <p>22 A Correct.</p> <p>23 Q So for this one to work, he had to get a</p> <p>24 day rate adjustment of \$518.72 to get him to his</p> <p>25 day rate pay; correct?</p>	<p style="text-align: right;">Page 73</p> <p>1 A Yes.</p> <p>2 Q Okay. And again, those are entered in</p> <p>3 under Dyr code, which comes out in his paystub as</p> <p>4 the day rate; right?</p> <p>5 A Yes.</p> <p>6 Q So he was paid \$800 for every day he</p> <p>7 worked in this pay period; right?</p> <p>8 A Yes. Again, that's not how the practice</p> <p>9 was supposed to have been set up, but that appears</p> <p>10 to be what J.D. did.</p> <p>11 Q Okay. Was J.D. ever in trouble for doing</p> <p>12 it that way?</p> <p>13 A I don't recall.</p> <p>14 Q Okay. You don't know if he was fired</p> <p>15 because of that?</p> <p>16 A I do not remember.</p> <p>17 Q Okay. In your opinion, this is the second</p> <p>18 time where you said that a pay entered as day rate</p> <p>19 was -- was improperly done, can you tell us what</p> <p>20 you think should have been done the right way?</p> <p>21 A Should have been how we structured it,</p> <p>22 which was 16 hours per on-call shift, and then,</p> <p>23 again, when there was a shortage, obviously, the</p> <p>24 colleagues were upset by that, and in many</p> <p>25 instances, management decided to make that</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

Page 74	Page 76
<p>1 additional payment to them, the gross-up or</p> <p>2 whatever we called it. But in my mind, those are</p> <p>3 separate from the hourly rate, which is what they</p> <p>4 were offered in their offer letter.</p> <p>5 Q All right. Let's look at someone with a</p> <p>6 different rate. Let's try Wilburn Durrance.</p> <p>7 Wilburn Durrance has a rate of 59.12 on his</p> <p>8 paycheck that's dated March 5th, March 18th, let's</p> <p>9 see if I can see the Bates number, yeah, Bates</p> <p>10 Number 361, do you see that?</p> <p>11 A Uh-huh.</p> <p>12 Q You strike me as a guy who's really good</p> <p>13 at math, we probably don't need to go look at the</p> <p>14 rate sheet, we probably figure it out. So it</p> <p>15 looks like --</p> <p>16 A I don't know about that.</p> <p>17 Q Yeah. Someone got mad that I called them</p> <p>18 a math genius, but I thought that would be a</p> <p>19 compliment, but I'll spare you, okay. So 160</p> <p>20 hours on this paycheck comes out to ten days;</p> <p>21 right?</p> <p>22 A Right.</p> <p>23 Q Okay. And if you got 12,500, then that</p> <p>24 target rate would be 1,250; right?</p> <p>25 A Right.</p>	<p>1 A Correct.</p> <p>2 Q Now, with Alan Pierson in Exhibit 170,</p> <p>3 Page Mammoth 889, we have yet another example of</p> <p>4 this, we have 192 hours, which would correspond to</p> <p>5 13 days; correct?</p> <p>6 A I believe that's right.</p> <p>7 Q In fact, I'm going to pull up my</p> <p>8 calculator, if you'll bear with me, just to make</p> <p>9 sure. So we take 192, if we divide that by 16,</p> <p>10 we'll come out to -- oh, I'm sorry, it's 12 days</p> <p>11 worked.</p> <p>12 A Oh.</p> <p>13 Q 12, I know, I'm so disappointed.</p> <p>14 A You shouldn't have relied on my math.</p> <p>15 Q Right. Okay. So 12 days worked, you may</p> <p>16 remember that his rate of 37.84 corresponds to</p> <p>17 \$800 per day?</p> <p>18 A Yes.</p> <p>19 Q Okay. And so 12 days worked at 800, his</p> <p>20 pay comes out to be 9,600; correct?</p> <p>21 A Correct.</p> <p>22 Q And for that to work, he had to get a</p> <p>23 gross-up of \$215.68; right?</p> <p>24 A Correct.</p> <p>25 Q Let's do -- let's do another rate here for</p>
Page 75	Page 77
<p>1 Q And we can verify this 59.12 rate back in</p> <p>2 Exhibit 151 where it shows 59.12 is targeting</p> <p>3 1,250 per day; right?</p> <p>4 A Correct.</p> <p>5 Q Okay. So we can see on this paycheck then</p> <p>6 for him to get his target rate, that his day rate</p> <p>7 gross-up was paid in an amount of \$203.04; right?</p> <p>8 A Correct.</p> <p>9 Q For Richard Loveless in Exhibit 170 on</p> <p>10 Mammoth 746, we have another example with a</p> <p>11 different rate. This one, again, is 160 hours,</p> <p>12 comes out to be ten days worked; right?</p> <p>13 A Right.</p> <p>14 Q And if you got paid \$10,000 for the ten</p> <p>15 days, we know his target was \$1,000 per day;</p> <p>16 right?</p> <p>17 A Correct.</p> <p>18 Q And with this rate, you have or the</p> <p>19 company has here for him at 47.30 back on Exhibit</p> <p>20 151, we can verify that that rate corresponds</p> <p>21 into, in fact, \$1,000 per day; right?</p> <p>22 A Right.</p> <p>23 Q And so for this payroll to work, because</p> <p>24 his hourly pay was short, there had to be a</p> <p>25 gross-up of \$540; correct?</p>	<p>1 Jonathan Baker.</p> <p>2 MR. STUKENBERG: Objection.</p> <p>3 Q (By Mr. Moulton) In Exhibit 170, Mammoth</p> <p>4 2089.</p> <p>5 MR. MOULTON: We're almost done, Will</p> <p>6 MR. STUKENBERG: Objection; cumulative and</p> <p>7 boring.</p> <p>8 MR. MOULTON: What?</p> <p>9 MR. STUKENBERG: Cumulative and boring.</p> <p>10 MR. MOULTON: I can barely hear you, but I</p> <p>11 think you're complaining that it's boring, but you</p> <p>12 should not complain because I'm getting you out of</p> <p>13 here at a reasonable time today. I can change all</p> <p>14 that.</p> <p>15 MR. STUKENBERG: Let's get through it.</p> <p>16 MR. MOULTON: Okay.</p> <p>17 Q (By Mr. Moulton) So for Jonathan Baker,</p> <p>18 the rate here that shows a 28.38, which we know</p> <p>19 back on Exhibit 151 corresponds to a \$600 day</p> <p>20 rate; right?</p> <p>21 A Yeah, target -- target amount, yeah.</p> <p>22 Q Yeah. And so 80 hours really is still 16</p> <p>23 times 5, so that's 5 days worked; right?</p> <p>24 A Right.</p> <p>25 Q Okay. And so at the rate of 600, 5 times</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 78</p> <p>1 600 equals his pay -- his pay of \$3,000; right?</p> <p>2 A Correct.</p> <p>3 Q And for that to work, because the hourly</p> <p>4 pay was short, he had to get a day rate gross-up</p> <p>5 of \$162; right?</p> <p>6 A Yeah. Had to, but -- I wouldn't say had</p> <p>7 to, but did get, yes.</p> <p>8 Q Okay. Right. You -- in your opinion,</p> <p>9 these were -- these amounts were a bonus, they</p> <p>10 weren't something that the company had to do?</p> <p>11 A Yeah, we set forth an hourly rate and did</p> <p>12 not have to tie to that target amount, but chose</p> <p>13 to in most cases.</p> <p>14 Q Who exactly were the folks that would</p> <p>15 approve whether or not the company was going to</p> <p>16 pay the gross-ups?</p> <p>17 A It would have been funneling through the</p> <p>18 island, so management on the island.</p> <p>19 Q Okay. Do you happen to remember any</p> <p>20 names?</p> <p>21 A I don't remember specifics, no.</p> <p>22 Q Okay. Would that -- would you have been a</p> <p>23 person that was approving the -- the gross-ups or</p> <p>24 no?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 80</p> <p>1 correct me, that there has been a waiver on those</p> <p>2 things. Now, if I ask about something that the</p> <p>3 waiver doesn't apply to, I'm sure Will's going to</p> <p>4 object and tell you not to respond. But I guess</p> <p>5 what you may want to do for this part is to give</p> <p>6 Will plenty of time to unmute himself and -- and</p> <p>7 put the objections in, because I do not want to</p> <p>8 get into privileged conversations, okay?</p> <p>9 A Okay.</p> <p>10 Q All right. So the -- the way I understand</p> <p>11 Mr. Broussard's testimony is that he was working</p> <p>12 with you guys to come up with a pay plan that</p> <p>13 would be compliant with targeting the amounts that</p> <p>14 Mr. Ellison wanted to pay, like we -- you know,</p> <p>15 from that original e-mail. Is that -- is that</p> <p>16 your understanding of what Mr. Broussard's role</p> <p>17 was?</p> <p>18 A Yes.</p> <p>19 Q Okay. And the way I understand it is that</p> <p>20 his perception was that there was basically two</p> <p>21 plans that were discussed, there was a plan that</p> <p>22 was, you know, you could pay day rates, but you</p> <p>23 would have to pay extra amounts on the day rate</p> <p>24 because overtime would be required, or you could</p> <p>25 use the day rates like a budget and come up with</p>
<p style="text-align: right;">Page 79</p> <p>1 Q Okay. So we're probably talking about</p> <p>2 like is that something that J.D. Kinsey would do</p> <p>3 on his own?</p> <p>4 A No, you're probably talking Ken Kinsey,</p> <p>5 something like that.</p> <p>6 Q Okay. Ken Kinsey, what about like a</p> <p>7 Robert Malcolm?</p> <p>8 A I don't recall.</p> <p>9 Q Okay. Now, we -- just to kind of give you</p> <p>10 some background before I get to my next round of</p> <p>11 questions, Mr. Beagle, just to let you know, we --</p> <p>12 we had Mr. Broussard in last Thursday in Houston</p> <p>13 for a deposition, we talked to him about, you</p> <p>14 know, coming up with offer letters, coming up</p> <p>15 with, you know, when y'all are talking about two</p> <p>16 different plans and things like that. So I want</p> <p>17 to kind of talk to you about some of the</p> <p>18 conversations as you recall them with</p> <p>19 Mr. Broussard, okay?</p> <p>20 And just so you know, because he's a</p> <p>21 lawyer, I'm not going to -- I don't want to ask</p> <p>22 about things that are privileged, but because this</p> <p>23 case involves advice that he may have given that</p> <p>24 the company is relying on for certain defenses,</p> <p>25 the way I understand it, Will can -- Will can</p>	<p style="text-align: right;">Page 81</p> <p>1 hourly rates to stay within the budget and pay</p> <p>2 hourly plus overtime; correct?</p> <p>3 A Correct.</p> <p>4 Q And as I understand his testimony, he</p> <p>5 wasn't sure about what exactly which plan y'all</p> <p>6 went with, but I think, based on your testimony, I</p> <p>7 can guess, but can you tell us which plan you went</p> <p>8 with or the company went with, I should say?</p> <p>9 A We went with hourly plus overtime.</p> <p>10 Q Okay. Now, the one thing I wanted to</p> <p>11 clear up is that with -- with the gross-up</p> <p>12 payments, was that something that was put to</p> <p>13 Mr. Broussard for his opinion on?</p> <p>14 A I don't recall.</p> <p>15 Q Did you discuss with Mr. Broussard whether</p> <p>16 or not the workers may be exempt in Puerto Rico?</p> <p>17 MR. STUKENBERG: And I'm just going to</p> <p>18 object here, Dave, are you talking about the</p> <p>19 plaintiffs in this case or any workers?</p> <p>20 MR. MOULTON: So I have a question -- so</p> <p>21 let me kind of clear this up, Will. I do want to</p> <p>22 talk about the plaintiffs in the case, but</p> <p>23 sometimes you may -- if you're trying to rely on</p> <p>24 advice he may have given to other folks, but</p> <p>25 you're still going to apply it to the plaintiffs</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 82</p> <p>1 in the case, I want to ask about that. Does that 2 make sense?</p> <p>3 MR. STUKENBERG: Sure. Go ahead.</p> <p>4 MR. MOULTON: If you're relying on advice 5 from him that applied to the plaintiffs, then I 6 want to know about that. I don't want to know how 7 you told some other workers that had positions 8 that were totally different, had nothing to do 9 plaintiffs.</p> <p>10 MR. STUKENBERG: Okay. Go ahead.</p> <p>11 MR. MOULTON: That make sense?</p> <p>12 MR. STUKENBERG: Yes.</p> <p>13 MR. MOULTON: Okay. All right.</p> <p>14 Q (By Mr. Moulton) So I want to know if you 15 had discussions with Mr. Broussard about whether 16 any of the plaintiffs were exempt?</p> <p>17 A I guess I don't know who the plaintiffs 18 are, so I don't know how to answer that.</p> <p>19 Q Okay. So let's -- let's describe them 20 generally, I'm not going to read you a list of 150 21 names, though I know Will wants me to, but -- so 22 the workers in this case are essentially the guys 23 who are restoring power in Puerto Rico, they're 24 like the rate -- you know, the different positions 25 we've seen on the rate sheets?</p>	<p style="text-align: right;">Page 84</p> <p>1 is that your understanding, that if they were paid 2 by the hour, they wouldn't be exempt, based on 3 Mr. Broussard's conversations?</p> <p>4 A I don't recall the specifics of the 5 conversations we had.</p> <p>6 Q Okay. Well, we have that original letter 7 and we can go back to it, but Mr. -- in that 8 letter, Mr. Broussard let you guys know that if 9 you're going to pay day rates, you're going to 10 have to pay them overtime, is that your 11 understanding?</p> <p>12 A Right. From that e-mail, yes.</p> <p>13 Q Right. Right. Besides white collar 14 exemptions, were there any other exemptions that 15 were discussed with Mr. Broussard?</p> <p>16 A I don't recall.</p> <p>17 Q All right. We have another exhibit I want 18 to show you, we're getting -- we're getting pretty 19 close to getting done.</p> <p>20 A Okay. (Plaintiff's Exhibit Number 156 previously 21 marked for identification and made part of 22 the record)</p> <p>23 Q (By Mr. Moulton) Let me show you 24 Plaintiff's Exhibit 156. In Exhibit 156, would 25</p>
<p style="text-align: right;">Page 83</p> <p>1 A Right.</p> <p>2 Q Like general foreman, foreman, lineman, 3 mechanics, electricians, those types people.</p> <p>4 A Gotcha.</p> <p>5 Q Yeah. So I want to know if you had 6 discussions with Mr. Broussard about whether or 7 not those workers were exempt.</p> <p>8 A I do think we asked initially whether they 9 would be considered salary or hourly and then just 10 talked about the day rate or the hourly options, 11 day rate with overtime or hourly with overtime.</p> <p>12 Q Okay. And why would you have asked them 13 whether or not they were hourly or salary?</p> <p>14 A To see if they were exempt or not.</p> <p>15 Q Right. Because for the -- at least for 16 the white collar exemption, I guess is what you 17 would have been asking about, would have required 18 a salary payment; right?</p> <p>19 A Correct.</p> <p>20 Q So if the workers were paid on an hourly 21 system, they wouldn't be exempt; right?</p> <p>22 MR. STUKENBERG: Objection. He's not a 23 lawyer, you can ask him what Mr. Broussard told 24 him.</p> <p>25 Q (By Mr. Moulton) Right. Well, is that --</p>	<p style="text-align: right;">Page 85</p> <p>1 you agree this is an e-mail that would go out to 2 workers about their benefits package?</p> <p>3 A Looks like it, yes.</p> <p>4 Q Okay. So in this exhibit, Exhibit 156, is 5 it Mammoth Energy Services, Inc., is that the 6 entity that provides the employee benefits?</p> <p>7 A I think it was Mammoth Energy, Inc.</p> <p>8 Q Okay. So do you know why this -- the 9 Mammoth Energy Services, Inc. logo was put on the 10 benefits guide?</p> <p>11 A I don't, maybe Energy, Inc., I don't even 12 know if they had a logo, I don't know.</p> <p>13 Q Okay. Were you the one that put this 14 together?</p> <p>15 A I don't recall.</p> <p>16 Q Okay. This --</p> <p>17 A It was actually probably our benefit 18 broker.</p> <p>19 Q Go ahead.</p> <p>20 A It may have been our benefit broker.</p> <p>21 Q Okay. Who was the benefit broker?</p> <p>22 A Andreini & Company.</p> <p>23 Q So scrolling through this, can you just 24 kind of verify with me if this is a correct -- I 25 mean, if these benefits that are described here</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 86</p> <p>1 are the benefits that were, in fact, offered to</p> <p>2 the workers?</p> <p>3 A To the best of my recollection, it seems</p> <p>4 right, yes.</p> <p>5 Q Okay. Were you ever a part of any</p> <p>6 discussions about whether or not either Higher</p> <p>7 Power or 5 Star had enough money in their accounts</p> <p>8 to cover payroll?</p> <p>9 A I -- I -- not that I specifically recall,</p> <p>10 but it's possible that would have worked with</p> <p>11 accounting or something like that.</p> <p>12 Q Okay. And do you know how Mammoth would</p> <p>13 handle finances as far as transferring to and from</p> <p>14 its entities?</p> <p>15 A I don't recall now.</p> <p>16 Q Were you part of what they call the</p> <p>17 treasury shared function?</p> <p>18 A I don't think so. I did a little bit of</p> <p>19 treasury when I first started with Stingray when</p> <p>20 they were very small, but not with Mammoth, no.</p> <p>21 Q Okay. So in your position as HR director</p> <p>22 with Mammoth Energy, Inc., you're part of a shared</p> <p>23 resource for all the entities of Mammoth; right?</p> <p>24 A Correct.</p> <p>25 Q Okay. In your opinion, what does that</p>	<p style="text-align: right;">Page 88</p> <p>1 MR. STUKENBERG: Great. Thank you, Dave.</p> <p>2 I've got a couple of questions. As it -- and,</p> <p>3 Dave, if you can't hear me, let me know.</p> <p>4 CROSS-EXAMINATION</p> <p>5 BY MR. STUKENBERG:</p> <p>6 Q As it relates to Mr. Kalman and</p> <p>7 Mr. Kinsey, what role, if any, did they have in</p> <p>8 establishing the pay structure?</p> <p>9 A Very little. I think Alex was more of a</p> <p>10 payroll coordinator, he actually joined us from</p> <p>11 our payroll provider, so that kind of technical</p> <p>12 knowledge on the system was why he was brought in.</p> <p>13 And I don't think J.D. had any, I think he may</p> <p>14 have even joined after the practice was kind of</p> <p>15 already in the process or developed.</p> <p>16 Q Okay. So their role was not to create the</p> <p>17 payroll system?</p> <p>18 A Correct.</p> <p>19 Q Okay. They were more execution processing</p> <p>20 payroll?</p> <p>21 A Correct.</p> <p>22 Q And is that true for the bonus payments or</p> <p>23 gross-ups that we've been talking about today?</p> <p>24 A Correct.</p> <p>25 Q Okay. Why did you all consult</p>
<p style="text-align: right;">Page 87</p> <p>1 mean when you're part of a shared resource,</p> <p>2 what -- how does that -- how does your work affect</p> <p>3 everyone else?</p> <p>4 A I think we're there to provide services</p> <p>5 that maybe the subsidiary or related parties don't</p> <p>6 have internally within their own kind of vertical,</p> <p>7 that could be HR support, accounting support,</p> <p>8 finance support, to kind of consult and guide them</p> <p>9 in their business operations.</p> <p>10 Q Okay. When -- when you guys were</p> <p>11 consulting with Mr. Broussard about the pay plan,</p> <p>12 which entities was that going to apply to?</p> <p>13 A It would have been Higher Power and 5 Star</p> <p>14 and potentially Cobra, but I can't recall.</p> <p>15 Q Okay. But -- and the way I understand it,</p> <p>16 you weren't an employee of either of those</p> <p>17 entities; right?</p> <p>18 A I was not.</p> <p>19 Q Or an employee, I mean.</p> <p>20 A Yeah, employee, correct.</p> <p>21 Q You were only employed by Mammoth Energy,</p> <p>22 Inc.?</p> <p>23 A Yes, at that time, yes.</p> <p>24 MR. MOULTON: Will, I'm going to pass this</p> <p>25 witness.</p>	<p style="text-align: right;">Page 89</p> <p>1 Mr. Broussard?</p> <p>2 A We wanted to, I think, just -- simple</p> <p>3 answer, we wanted to do it the right way. We</p> <p>4 wanted to do it in a compliant manner and just had</p> <p>5 some questions on how to make sure we were doing</p> <p>6 that.</p> <p>7 Q Okay. And so the purpose was to make sure</p> <p>8 that you all were in compliance with the Fair</p> <p>9 Labor Standards Act?</p> <p>10 A Correct.</p> <p>11 Q And did you believe you were in compliance</p> <p>12 with the Fair Labor Standards Act?</p> <p>13 A Yes.</p> <p>14 MR. MOULTON: Objection; form.</p> <p>15 Q (By Mr. Stukenberg) Were you at any point</p> <p>16 given any indication that you were anything but in</p> <p>17 compliance with the Fair Labor Standards Act?</p> <p>18 MR. MOULTON: Objection; form.</p> <p>19 THE WITNESS: No.</p> <p>20 Q (By Mr. Stukenberg) Mr. Broussard approved</p> <p>21 the offer letters that ultimately went out in this</p> <p>22 case as being compliant?</p> <p>23 A Yes.</p> <p>24 MR. MOULTON: Objection; form.</p> <p>25 Q (By Mr. Stukenberg) What was the original</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 90</p> <p>1 target number of hours per day, do you recall?</p> <p>2 A I think it was either 10 or 12.</p> <p>3 Q Okay. And then ultimately, that migrated</p> <p>4 to 16?</p> <p>5 A Correct.</p> <p>6 Q Why was that increased to 16?</p> <p>7 A I think 16 was the maximum that anybody</p> <p>8 would ever work, it was also the amount time that</p> <p>9 they were expected to be on call and available</p> <p>10 even if they'd returned to the company-provided</p> <p>11 housing to go back out to the field, so 16 is what</p> <p>12 we set it at to compensate for that on-call time.</p> <p>13 Q Okay. Let's take a look at --</p> <p>14 MR. STUKENBERG: Anthony, it will be my 5,</p> <p>15 but it will be something else.</p> <p>16 MR. MOULTON: Sorry?</p> <p>17 MR. STUKENBERG: I'm going to have Anthony</p> <p>18 pull up a document for me.</p> <p>19 MR. MOULTON: Which one?</p> <p>20 MR. STUKENBERG: We have a different</p> <p>21 numbering system, so he's going to pull it up.</p> <p>22 MR. MOULTON: No, you don't. I have all</p> <p>23 your exhibits, bro.</p> <p>24 MR. STUKENBERG: He's going to pull it up</p> <p>25 as 5 and then he's going to tell you what number</p>	<p style="text-align: right;">Page 92</p> <p>1 the file we looked at earlier as well.</p> <p>2 Q And it's similar, it's just a different</p> <p>3 iteration.</p> <p>4 A Okay.</p> <p>5 Q If you'll see here, the hours per day were</p> <p>6 11?</p> <p>7 A Okay.</p> <p>8 Q Did you discuss this compensation system</p> <p>9 with Mr. Broussard?</p> <p>10 A Yes.</p> <p>11 Q And what was Mr. Broussard's feedback</p> <p>12 about the compensation system as structured here?</p> <p>13 A That it was compliant under the FLSA.</p> <p>14 MR. STUKENBERG: Let's also take a look</p> <p>15 at, Anthony, what is my 12. And let's scroll to</p> <p>16 the third e-mail down.</p> <p>17 (Exhibit Number 142 previously marked for</p> <p>18 identification and made part of the</p> <p>19 record)</p> <p>20 Q (By Mr. Stukenberg) Do you recall this</p> <p>21 e-mail, Mr. Beagle?</p> <p>22 A Yes.</p> <p>23 Q Okay. Let's go up to the first page. Do</p> <p>24 you see the e-mail from you to Mr. Whitsett on</p> <p>25 October 24th at 1:23?</p>
<p style="text-align: right;">Page 91</p> <p>1 it is that's in your system.</p> <p>2 MR. MOULTON: Oh, okay. Are you using the</p> <p>3 same number you used before, Exhibit 5?</p> <p>4 MR. STUKENBERG: No.</p> <p>5 MR. MOULTON: Okay.</p> <p>6 MR. STUKENBERG: I'm not marking it as</p> <p>7 Exhibit 5.</p> <p>8 MR. MOULTON: If you'll note, is it a new</p> <p>9 one or what are you doing?</p> <p>10 MR. STUKENBERG: No, it's one we used, I</p> <p>11 just don't know the number, the previous number.</p> <p>12 Anthony may not be there. Anthony, are you there?</p> <p>13 MR. ARTEAGA: I'm here, sir. Can you guys</p> <p>14 see it?</p> <p>15 MR. STUKENBERG: No.</p> <p>16 MR. ARTEAGA: No? Okay.</p> <p>17 THE WITNESS: We can see it.</p> <p>18 MR. ARTEAGA: How about now? Okay.</p> <p>19 (Exhibit Number 134 previously marked for</p> <p>20 identification and made part of the</p> <p>21 record)</p> <p>22 Q (By Mr. Stukenberg) Do you recall this</p> <p>23 e-mail? And it may be helpful to see the</p> <p>24 attachment that goes with it.</p> <p>25 A Yes, I believe this is the e-mail that had</p>	<p style="text-align: right;">Page 93</p> <p>1 A Yes.</p> <p>2 Q Again, what was the significance of the</p> <p>3 16-hour shift?</p> <p>4 MR. MOULTON: Object to form.</p> <p>5 THE WITNESS: Again, I think it was the</p> <p>6 kind of maximum that a colleague would be asked to</p> <p>7 work because there could be certain things that</p> <p>8 are triggered over that 16-hour time frame in a</p> <p>9 given day, DOT or OSHA, depending on kind of the</p> <p>10 role they were in. So that was the maximum we'd</p> <p>11 ever ask them to work. And then they were</p> <p>12 essentially kind of on call that entire time and</p> <p>13 so that's where we budgeted or kind of came up</p> <p>14 with that 16-hour shift, because that's the amount</p> <p>15 of time they would be on call, the maximum they'd</p> <p>16 work and we wanted to compensate them fully for</p> <p>17 that time.</p> <p>18 Q (By Mr. Stukenberg) And what would have</p> <p>19 happened if they worked over 16 hours?</p> <p>20 A They would have been paid.</p> <p>21 Q So the practice was to pay them if they</p> <p>22 worked over 16?</p> <p>23 A Yeah.</p> <p>24 Q Got it. Let's talk a little bit about</p> <p>25 these bonuses or gross-ups or payroll adjustments</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 94</p> <p>1 we've been talking about today. Do you know what</p> <p>2 I'm referring to?</p> <p>3 A Yes.</p> <p>4 Q What phrase would you like to use?</p> <p>5 Doesn't really matter to me, whatever you want.</p> <p>6 A Let's use gross-up, that's fine.</p> <p>7 Q Okay. Can you please describe what the</p> <p>8 purpose of these gross-ups were?</p> <p>9 A Yes, I think it was more than anything, it</p> <p>10 was a decision by the organization, by management,</p> <p>11 from a kind of morale standpoint that, you know,</p> <p>12 we had these targeted day rates and situations</p> <p>13 where they were not met, for employee retention</p> <p>14 purposes, felt strongly that we should consider</p> <p>15 paying those out in certain situations. Again, I</p> <p>16 don't think they were owed per se, because we</p> <p>17 structured their compensation for an hourly rate,</p> <p>18 but it was more of a retention and morale decision</p> <p>19 than anything.</p> <p>20 Q Were they generally paid?</p> <p>21 A I believe in most cases they were, there</p> <p>22 were certainly instances that I can recall where</p> <p>23 they weren't always paid, but I think generally</p> <p>24 they were, they were paid.</p> <p>25 Q Can you tell us about some of the</p>	<p style="text-align: right;">Page 96</p> <p>1 any, as it related to these gross-ups?</p> <p>2 A Yeah, he could have decided not to pay</p> <p>3 those as well.</p> <p>4 Q So are you familiar with the requirement</p> <p>5 or as to the requirement to pay overtime on</p> <p>6 discretionary bonuses?</p> <p>7 A Yes.</p> <p>8 MR. MOULTON: Objection to form.</p> <p>9 Q (By Mr. Stukenberg) And what is your</p> <p>10 general understanding?</p> <p>11 MR. MOULTON: Objection; form.</p> <p>12 THE WITNESS: Discretionary bonuses do not</p> <p>13 have to be included in the regular rate of pay for</p> <p>14 overtime calculations.</p> <p>15 Q (By Mr. Stukenberg) And so why were these</p> <p>16 gross-ups in Puerto Rico not included in the</p> <p>17 overtime calculations?</p> <p>18 MR. MOULTON: Objection; form.</p> <p>19 THE WITNESS: Because we felt they were</p> <p>20 discretionary.</p> <p>21 Q (By Mr. Stukenberg) Okay. We saw a couple</p> <p>22 of paystubs where it had a Dyr code and a flat</p> <p>23 amount entered, it just said day rate, is that</p> <p>24 consistent with what the pay practice was here?</p> <p>25 A No.</p>
<p style="text-align: right;">Page 95</p> <p>1 instances you recall where they weren't paid?</p> <p>2 A I couldn't recall names, but I just</p> <p>3 remember certain situations where maybe personal</p> <p>4 situations arise, whatever it may have been,</p> <p>5 somebody didn't work a full shift and management</p> <p>6 on-site elected not to pay those additional</p> <p>7 amounts.</p> <p>8 Q Okay. So you recall an instance anyway</p> <p>9 where management elected not to pay a gross-up</p> <p>10 when a person worked a short week because the</p> <p>11 individual took personal time or something?</p> <p>12 A Right.</p> <p>13 Q Any other instances you recall where the</p> <p>14 decision was made not to pay the gross-ups?</p> <p>15 A Not specifically.</p> <p>16 Q Okay. Is it your recollection that it did</p> <p>17 happen from time to time?</p> <p>18 A Yes.</p> <p>19 Q And that was a decision made at the Puerto</p> <p>20 Rico management level?</p> <p>21 A Correct.</p> <p>22 Q Could you have elected to disapprove</p> <p>23 anybody's gross-up if you wanted to?</p> <p>24 A If I had a reason to, I could have.</p> <p>25 Q What about Mark Layton's authority, if</p>	<p style="text-align: right;">Page 97</p> <p>1 Q What, if anything, were those paystubs,</p> <p>2 what do those reflect?</p> <p>3 A Well, they were intended to reflect the</p> <p>4 16-hour shifts that they would have been on call</p> <p>5 for the days that they were available and ready</p> <p>6 for work. When it was entered like a day rate</p> <p>7 like that, the only thing I can think of is either</p> <p>8 got lazy or got in a hurry and didn't follow the</p> <p>9 appropriate protocol.</p> <p>10 Q Okay. So somebody either got lazy or made</p> <p>11 a mistake?</p> <p>12 A Yeah.</p> <p>13 Q Do you consider those to accurately</p> <p>14 reflect the actual pay practice the company</p> <p>15 embraced under the advice of Mr. Broussard?</p> <p>16 A No.</p> <p>17 Q Do you believe that the company was</p> <p>18 obligated to pay gross-ups?</p> <p>19 A No.</p> <p>20 MR. MOULTON: Objection; form.</p> <p>21 Q (By Mr. Stukenberg) There were exempt</p> <p>22 employees who were paid their base compensation,</p> <p>23 plus a day rate, do you recall that?</p> <p>24 A Yes.</p> <p>25 Q And we've seen various e-mails where you</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 98</p> <p>1 and others have used the term "day rate," what did 2 you mean when you used the term "day rate"?</p> <p>3 MR. MOULTON: Objection; form.</p> <p>4 THE WITNESS: I guess in those instances 5 where it was an exempt employee that also received 6 a day rate, probably more purely day rate. In 7 most instances where I used it, it was a shorthand 8 because that's kind of what the managers on the 9 island understood, versus saying, you know, 10 targeted weekly earnings or -- or something like 11 that, it was just easier to say day rate.</p> <p>12 Q (By Mr. Stukenberg) So what you really 13 meant were targeted -- targeted weekly earnings --</p> <p>14 A Right.</p> <p>15 Q -- or daily earnings?</p> <p>16 A Right.</p> <p>17 Q Okay. So you weren't using it as a legal 18 term of art?</p> <p>19 A Correct.</p> <p>20 MR. STUKENBERG: I'll pass the witness.</p> <p>21 REDIRECT EXAMINATION</p> <p>22 BY MR. MOULTON:</p> <p>23 Q You mentioned that the general practice 24 was to pay the gross-ups, can you -- are you able 25 to -- to remember how many times that the</p>	<p style="text-align: right;">Page 100</p> <p>1 unexpected personal issues or things like that, 2 but again, I -- I can't remember every scenario.</p> <p>3 Q Okay. So like somebody was having an 4 issue they needed to deal with back home and they 5 were taking off from the island early, those would 6 be situations where that you could recall they 7 weren't getting the gross-up?</p> <p>8 A Correct.</p> <p>9 Q You talked about how the 16 hours is 10 supposed to be a number, like a maximum amount 11 worked that includes the actual time worked, plus 12 their on-call time, as you would say, do you 13 recall that?</p> <p>14 A Yes.</p> <p>15 Q And so I have a question for you, do you 16 have an opinion about how many hours were actually 17 worked on average out of those 16 hours?</p> <p>18 MR. STUKENBERG: And I just want to object 19 because we've got into this back and forth before, 20 Dave, and I think we can clear it up if we just 21 get on the same page as what you're referring to. 22 Are you referring to how many hours are actively 23 worked in the field verse how many hours are on 24 call, but not actively being worked, is that the 25 distinction you're trying to draw?</p>
<p style="text-align: right;">Page 99</p> <p>1 gross-ups weren't paid?</p> <p>2 A I don't, I don't recall, I just -- I 3 remember instances where they weren't paid, but I 4 can't remember specifics.</p> <p>5 Q Okay. And I also want to just kind of 6 clarify something. What I heard you say when you 7 answered about certain situations when they were 8 not paid, was when a -- when a worker didn't work 9 a full shift, but then Mr. Stukenberg asked you if 10 it was when they didn't work a full week, so I 11 wanted to clarify that. Was it when -- like you 12 had a worker who had a personal issue who left 13 early and missed part of a shift is when it 14 wouldn't be paid or was -- or was it not paid when 15 they didn't work a full week?</p> <p>16 A I guess they wouldn't have to be mutually 17 exclusive, but I intended a full week is what I 18 meant to say versus a shift, not that they left in 19 the middle of the day, but they didn't finish 20 their full week.</p> <p>21 Q Okay. Did it matter if they weren't 22 finishing it for a -- like whether it was a 23 personal issue or scheduled days off?</p> <p>24 A The ones I remember were kind of un -- 25 that kind of -- that came to mind were kind of</p>	<p style="text-align: right;">Page 101</p> <p>1 MR. MOULTON: Yes, but -- but because we 2 can then keep on going down rabbit holes about 3 what active means, I don't really want to do that. 4 You've -- you've asked him questions that were 5 pretty technical about the FLSA, I take it this 6 guy understands the difference between hours that 7 are actual working and which ones aren't, and so I 8 think he understands that. So my question is --</p> <p>9 MR. STUKENBERG: I just don't want to get 10 into some where it gets misconstrued later that he 11 says 11 hours worked and you're like, well, it was 12 16, you know, because he's not counting the 13 on-call time.</p> <p>14 Q (By Mr. Moulton) Well, let's do this then, 15 out of that 16 that was -- that was including 16 on-call time, how much of that on average do you 17 think was actual on-call time?</p> <p>18 A I -- I don't know the answer to that. I 19 mean, based off the e-mails, I think it seemed 20 like we were originally targeting around a 12-hour 21 shift, so maybe that's the right answer, but I 22 wasn't there, probably didn't get into that level 23 of detail after we put the practice in place.</p> <p>24 Q Okay. Okay. So you wouldn't have visited 25 the island, for instance, to kind of -- to find</p>

JEFFREY ATLEE BEAGLE - April 18, 2022

<p style="text-align: right;">Page 102</p> <p>1 out, talking to workers or observing how many</p> <p>2 hours they were actually working?</p> <p>3 A Correct.</p> <p>4 Q And you wouldn't have had -- you didn't</p> <p>5 have people do that for you and then report back</p> <p>6 to you?</p> <p>7 A Correct.</p> <p>8 Q So when you say that you think it could</p> <p>9 have been 12, that's just based on those early</p> <p>10 conversations about what was sort of expected or</p> <p>11 what they thought the days were really going to</p> <p>12 go, it's not -- you're not saying that you have</p> <p>13 any knowledge of how many hours they were actually</p> <p>14 working?</p> <p>15 A Correct, yeah. I believe I would have had</p> <p>16 knowledge had it gone over the 16, but between</p> <p>17 there, no, I don't know.</p> <p>18 Q Okay.</p> <p>19 MR. MOULTON: I think that's it. Pass the</p> <p>20 witness.</p> <p>21 MR. STUKENBERG: Nothing from me. I'll</p> <p>22 take an e-tran. We'll read and sign.</p> <p>23 THE VIDEOGRAPHER: Off the record.</p> <p>24 (Deposition adjourned at 2:16 p.m.)</p> <p>25 * * * * *</p>	<p style="text-align: right;">Page 104</p> <p>1 Correction Sheet</p> <p>2</p> <p>3 Witness: JEFFREY ATLEE BEAGLE</p> <p>4 Reporter: KBJ</p> <p>5 Attorney: DAVID MOULTON, 8 GREENWAY PLAZA, STE.</p> <p>6 1500, HOUSTON, TX. 77046 Date: 4-18-22</p> <p>7 OA: WILLIAM STUKENBERG</p> <p>8</p> <p>9 Case Style: CANTU, ET AL. v. MAMMOTH, ET</p> <p>10 AL;5:19-cv-00615</p> <p>11</p> <p>12 Page Line Correction Reason for Correction</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 103</p> <p>1 J U R A T P A G E</p> <p>2</p> <p>3 I, JEFFREY ATLEE BEAGLE, do hereby state</p> <p>4 under oath that I have read the above and foregoing</p> <p>5 deposition in its entirety and that the same is a</p> <p>6 full, true and correct transcript of my testimony so</p> <p>7 given at said time and place, except for the</p> <p>8 corrections noted.</p> <p>9</p> <p>10 _____</p> <p>11 JEFFREY ATLEE BEAGLE</p> <p>12</p> <p>13 Subscribed and sworn to before me, the</p> <p>14 undersigned Notary Public in and for the State of</p> <p>15 _____, by said witness</p> <p>16 _____, on this the ____ day of</p> <p>17 _____, 2022.</p> <p>18</p> <p>19 _____</p> <p>20 Notary Public</p> <p>21</p> <p>22 My Commission Expires: _____</p> <p>23</p> <p>24 KBJ</p> <p>25</p>	<p style="text-align: right;">Page 105</p> <p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 STATE OF OKLAHOMA)</p> <p>4) SS:</p> <p>5 COUNTY OF OKLAHOMA)</p> <p>6</p> <p>7 I, Karen B. Johnson, Certified Shorthand</p> <p>8 Reporter, within and for the State of Oklahoma, do</p> <p>9 hereby certify that JEFFREY ATLEE BEAGLE was by me</p> <p>10 first duly sworn to testify the truth, the whole</p> <p>11 truth, and nothing but the truth in the case</p> <p>12 aforesaid; that the above and foregoing testimony</p> <p>13 was by me taken in shorthand and thereafter</p> <p>14 transcribed; that the same was taken on APRIL 18,</p> <p>15 2022, that the testimony was taken in OKLAHOMA CITY,</p> <p>16 State of Oklahoma; that I am not an attorney for nor</p> <p>17 a relative of any said parties or otherwise</p> <p>18 interested in the event of said action.</p> <p>19 IN WITNESS WHEREOF, I have hereunto set my</p> <p>20 hand and seal of office on this 27TH day of APRIL,</p> <p>21 2022.</p> <p>22</p> <p>23 _____</p> <p>24 Karen B. Johnson</p> <p>25 State of Oklahoma CSR #1376</p> <p>Good to Go Process Service</p> <p>1225 North Loop West, Suite 327</p> <p>Houston, Texas 77008</p>